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ABSTRACT

In order to identify an appropriate legal structure for an interstate library agency in the southwest region of the United States the variety of existing organizational patterns actually used by various interstate service operations or potentially available for use were surveyed. Attention was paid to the legal requirements which influence the environment of library networks in general and interstate operations in particular. Three legal patterns were considered: the non-profit corporation, a federal regional authority, and the device of an interstate compact. A relatively new approach, the federal-interstate compact was selected as the most attractive legal base for a regional library agency. Some recommendations for future action and an outline of the compact's provisions are included. The appendixes of this report include selected interstate compacts and a bibliography of pertinent legislation, case law, books, documents and articles. (Author/SL)

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SOUTHWESTERN LIBRARY INTERSTATE COOPERATIVE ENDEAVOR (SLICE)

A Project of the

SOUTHWESTERN LIBRARY ASSOCIATION

TO PROMOTE ALL LIBRARY INTERESTS IN THE SOUTHWEST AND MEXICO

LEGAL ASPECTS OF ESTABLISHING A REGIONAL INTERSTATE LIBRARY NETWORK IN THE SOUTHWEST

By

Harry S. Martin

A Final Report of a Study
Sponsored by the SLICE Project
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Maryann Duggan
SLICE Office Director
June 25, 1974

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LEGAL ASPECTS OF ESTABLISHING A REGIONAL INTERSTATE LIBRARY NETWORK IN THE SOUTHWEST

by

Harry S. Martin*

Background of the Study

The Southwestern Library Interstate Cooperative Endeavor (SLICE) is a project of the Southwestern Library Association (SWLA) designed to further interstate cooperation and regional development of library resources and services within the six state area.[1] In September of 1970, the six state library agencies sponsored a Conference on Interstate Cooperative Endeavor which resulted in the identification of eleven areas of interstate cooperation and the recommendation that a SLICE Project be formed. The SLICE Office was established on October 1, 1971, with financial support from the six state library agencies and the Council on Library Resources.

The interest of SLICE in the legal aspects of interstate library operations has really been twofold. On the one hand, those involved in the SLICE Project, as well as many members of the Southwestern Library Association at large, have demonstrated particular interest in encouraging and formalizing cooperative measures among libraries in the six Southwestern states. In fact, SLICE was established to develop a regional plan for inter-library cooperation in the area with particular emphasis on a regional bibliographic network as a first step towards the possible creation of an "interstate regional library development agency."[2]

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* See biographical sketch on last page of report

The question here was really: How creative can the librarians of the Southwest be in planning for library services on a regional basis? What might be the legal base for a strong, multiple service, regionally oriented library agency? As a part of the planning process, a series of eleven "Working Papers" on various topics was proposed, the seventh of which was entitled "Legal Aspects of a Regional Bibliographic Network in the six SWLA states."[3]

But SLICE is also interested in improving its present legal status in order to improve its current day-to-day operations. The SLICE Office is a creation of the Southwestern Library Association, with no independent legal existence of its own. SLICE faces problems in receiving and transmitting funds, has no ability to hire and fire personnel, and in fact depends for office space on a contract between the Southwestern Library Association, the parent of SLICE, and the University of Texas Southwestern Medical School.

These problems, however, are not unique to SLICE. Many other affiliations, such as other regional library associations or academic consortia,[4] are restricted by limited budgets, small permanent staffs, rotating authority and no legal charter.[5] The difficulties such an organization would face in operating a long-term service project such as a computer-based bibliographic network are readily apparent. It would be impossible for such an operation to evolve into an agency with a broad range of services and coordinating authority without some drastic organizational improvements.

Creation of a regional bibliographic network with the capability of evolving into an agency offering a broader range of services should, by a process of absorption, subsume the more immediate problems facing SLICE and its siblings. For that reason, this paper will focus on identifying the best possible legal pattern or patterns for establishing an interstate library network and will not dwell on the deficiencies of existing operations.

Introduction

The purpose of this paper, therefore, is to survey the variety of existing organizational patterns actually used by various interstate service operations or potentially available for use in order to identify an appropriate legal structure for an interstate library agency in the Southwest region. To do this, some attention will be paid to several factors which influence the environment of library networks in general and interstate operations in particular. From the spectrum of alternative organizational structures, three legal patterns will be discussed in some detail: the non-profit corporation, a federal regional authority, and the device of an interstate compact. A relatively new approach, the federal-interstate compact, will be selected as the most attractive legal base for a regional library agency in the Southwest. Some recommendations for future action and an outline of the compact's provisions are included.

Not only is library networking a field where new developments

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occur daily, the subject of interstate agreements has been left relatively undeveloped by legal scholars[6] and courts alike. In addition, the "new federalism" of the current Administration has left intergovernmental relations in a state of flux.[7] As a result, this study must remain preliminary and tentative in several respects. However, the need for action of some sort becomes ever more apparent. The work of the National Commission on Libraries and Information Science brings the possibility of a nationally intergrated system of information networks closer to reality.[8] Failure to participate in the planning and formulation of any national system may well bring to the Southwest a level of library organization and service which participation could have improved. This paper, therefore, is offered to the state officials and libraries of the Southwest as a working paper and as a subject for discussion in the creation of an organization which can best serve the information and library needs of the region.

The Environment of Interstate Networking

There are several general considerations which affect the environment of interstate library networks. Perhaps the first is the favorable consideration which members of the library profession have always given, at least verbally, to cooperation among libraries. And in fact, most libraries today participate in some regular and continuing cooperative transaction. Bibliographic data is transferred through printed catalogs of single libraries, through union catalogs at the state, regional and national levels, and through less traditional means such as

machine-readable tapes. Library materials themselves are exchanged in several ways. Interlibrary lending and borrowing is a widespread activity; in many larger libraries, interlibrary loan is a separate department. Book depositories to house lesser used items are not uncommon in library systems. Duplicate exchange programs are often popular with smaller libraries. In addition, many libraries do not hesitate to exchange information services by providing other libraries with the results of literature or reference searches which often would be denied the average patron.

To some such regular interlibrary contacts constitute a network.[9] Others view networks as more structured forms of cooperation.[10] To members of the library profession today, the terms "library network" or "bibliographic network" also imply the presence of computers or telecommunications hardware. "Any definition of [networking] lacks something....Definitions should be like maps: they help you explore the ground; they are not substitutes for exploration."[11] The concept of a network which will be used in this paper is that of a formal organization capable of linking libraries and information centers in several states through the tools available from the computer and telecommunications technologies.

A formal organization is presupposed because the type of network involved and the range of services involved affect the type of organization required: the greater the range of services, the more formal the organization. For example, an informal arrangement between two libraries to lend materials upon request is relatively easy to establish and similarly simple to disband if one library

feels disadvantaged. When a large group of libraries decide to engage in an exchange of materials, the requirements of the exchange must be set forth in greater detail, as in the ALA Interlibrary Loan Code.

This requirement of formality will not, however, much retard the further development of library networks. Networking is encouraged by several factors but primarily by the economies available from large-scale co-operation and the increase in user services resulting from access to expanded resources. The persistent inflationary trend pushes up the cost of library materials annually. Coupled with an ever-increasing output from the publishing trade,[12] a factor in that general phenomenon known as the information explosion, American libraries no longer find it feasible to acquire complete collections in a range of subject areas. At the same time, inflation has driven up the cost of library technical processes. Since many library operations involve the manipulation of bibliographic records or files,[13] librarians have been concentrating largely on programs designed to centralize these records and simplify their handling. Shared cataloging programs of one sort or another are becoming more prevalent.[14]

On the other hand, while economic pressures will continue to make large-scale cooperative ventures more attractive, the new and expanded services available from a library network should be a major consideration in network establishment.[15] At the moment, reducing the cost of library operations is of prime concern to those involved in network planning. But the long-range

advantages in terms of user benefits should not be ignored.

While specific factors promote the growth of library networks, there exist more generalized factors which also encourage developments along these lines. For some years there has been a trend in the United States toward centralization of decision-making power over wider geographic areas.[16] Centralization in this sense is distinguished from questions of concentration or legitimazation of power and refers only to the ability to initiate programs or set policy for larger geographic areas, affecting more people and institutions. Recent examples are creation at the national level of such agencies as the Environmental Protection Agency, the Federal Energy Office, the Occupational Safety and Health Administration, and the like, all supervising matters once considered properly within the domain of the states. Many citizens today have no recollection of the time when the regulation of business or the administration of social welfare were the responsibilities of the states.

This trend raises serious questions about the balance of power in the American federal system, specifically about the role of the states.[17] The creation of the Council of State Governments was a partial response to this concern.[18] The Council has encouraged several types of interstate cooperation aimed at preventing a complete flow of decision-making authority to Washington. The approaches used have included interstate compacts, associations of state officials,[19] model or uniform laws,[20] and executive agreements or contracts.[21] A partial result is that states' rights is giving way to regional concerns. The new federalism has attempted to

reverse this trend toward centralization by revenue-sharing,[22] easing some of the strictures of the federal grant-in-aid approach.[23] But the federal government is still administering much of their grantmaking activity on a regional rather than a state by state basis.[24]

A recent report of the Advisory Commission on Intergovernmental Relations portrays the development of regionalism in some detail.[25] What is significant is that the region is becoming a viable special-purpose administrative unit, politically acceptable to state and national government alike, at the same time that the library cooperative movement is seeking to expand network operations across state lines.

The favorable attitude of much of the library profession toward various forms of cooperation; economic pressures to share resources and develop centralized operation of technical services; a general trend toward political centralization plus the emergence of regional operations in several areas; and, of course, a factor not discussed but generally accepted, namely, the availability of sophisticated computer and telecommunication technologies; all these factors contribute to a favorable environment for network development. What is also required is some general idea of the type of operations and services involved as well as a picture of the overall structure of the network system.

The schema used hereafter is based principally on the summary presented by the Working Group on Network Organization at the Airlie House conference in 1970,[26] which is quite similar in its general outline to the National Commission's whitepaper.[27]

Both groups project a national picture composed of a hierarchy of networks, ranging from the local to the state, regional and national levels, and interspersed throughout with special purpose networks.

Local networks would group libraries within a city or some larger portion of a state in a resource-sharing program within the area. State networks would integrate the operations of these local networks with other statewide agencies and play important roles in program planning, receiving and disbursing federal and state funds, and public relations.[28] Regional networks would combine state networks, special-purpose networks and subsets of national information networks under one coordinating agency responsible for planning and executing services in a multi-state area. At the national level, the Working Group proposed federal legislation designed to create a national coordinating agency, responsible for the smooth interface of all levels of networks, and incorporating national information centers such as the Library of Congress and national special-purpose networks such as the regional medical library network.[29]

Networks of one kind or another now exist at each level except the national, and a general-purpose national-level network (RIBN) is probably just a matter of time.[30] Certainly, in creating a network at one level, attention must be given to the existence of other levels of networks. Legal as well as technological compatibility must exist.

The role of a regional interstate bibliographic network would be to provide for a computer-based exchange of bibliographic

information on a multi-state basis. Ancillary services, such as catalog-card production and order preparation, might also be included. Centralized processing might then follow. Integrating interlibrary loan networks would provide for a regional hierarchy of request patterns. Coordinated collection development, regional resource centers, and rotating collections will bring the resources of the entire region more directly to bear on the information needs of the residents of that region. As the network adds services such as these and evolves from a RIBN into a full-service information bank, there will be corresponding increase in the need for funds, coordination, and centralized control. As operations become more complex, so do the legal problems of operating across state lines and the need for a stable legal structure becomes more apparent.

Legal Base for a Network

The legal requirements for an interstate network are fairly straightforward. First, since operation as a legal non-entity is difficult, there must be some document drawn up which defines the nature, purposes, and scope of the network. This document must then be accepted by the states involved as creating a legal person. Such a document could establish the network as a recognized agent of some existing agency, as is the case with NELINET;[31] the network could be recognized as an independent corporation under the laws of one state, as happened with OCLC;[32] or the network could be recognized as an independent entity by the laws of several states. This occurs when an agency such as

the New York Port Authority is created by interstate compact.[33] There is another possibility, of course, and that is federal preemption. Congress could establish a regional organization by federal legislation, as it did in the case of the TVA and, more recently, in the creation of regional medical facilities[34] such as TALON.

Library networks, to use the term in its broadest sense, have taken and could take many other forms. But many of these structures have proved unsatisfactory even for their limited purposes.[35] The informal approaches taken by library consortia could not withstand the rigors of a formal interstate operation of any scope.[36] A satellite operation, where a major research library expanded its services to include smaller, surrounding libraries is a possible network configuration that, again, would be inappropriate in a regional context. Privately operated, self-styled networks such as BIBNET[37] are in operation to sell services. "Member" participation in policy-making and planning is impossible, a distinct disadvantage in an interstate network. What is required is a type of organizational format that concentrates on common goals and policies and is not limited to effectuating certain specific services.

Whatever approach is taken, legal identity is the first requirement. All other needs, limited liability, a beneficial tax status, control over internal operations, a bank book, ability to acquire and maintain equipment, staff and physical facilities, and many other desireable traits all flow from the act of incorporation as a legal entity and recognition as such by the governments of the region involved. When the operative document is

drafted, attention will have to be given to several legal and administrative details, and the choices made will depend upon the preferences of the participants, the purposes to be achieved and the type of method chosen for incorporation. Two of these decisions might be especially difficult, but they will affect the legal character of network and may prove troublesome to subsequent operations if they are not met head on at the beginning. These issues are accountability on the one hand and coercive powers on the other.

One of the issues often ignored in the creation of cooperative ventures, certainly the issue handled with the most delicacy, is that of enforcement. How should the organization compel the compliance of its members? This is not a question that need arise often in fact, but without some ability to coordinate the actions of members for the common good, the purposes of the organization may be easily frustrated. The U.N. is a popular example of a cooperative endeavor frustrated by an inability to enforce its standards. An interstate network of different types of libraries, each with a set of problems and goals of its own, is unlikely to proceed indefinitely on concensus. The network must have some ability to force decisions to be made and to obtain the active acquiescence of all members.

On the other hand, an interstate network must be both responsive in some fashion to its members and to those affected by its operations and accountable to any supervisory body. As a practical matter, a balance must be struck between power and accountability. An imbalance may produce not only operating

difficulties, but may subject the network to a variety of legal problems, such as lawsuits over the spending of money.

At this point, it might be helpful to turn to some specific examples and look at each in terms of the type of legal entity created, its ability to set and enforce rules and standards, and its accountability for its actions. In passing, we can note important non-legal factors as well.

Non-profit Incorporation

When one thinks of bibliographic networks, one has to think first of the Ohio College Library Center (OCLC). OCLC is a non-profit corporation chartered by the State of Ohio on July 6, 1967, pursuant to Chapter 1702 of the Ohio Revised Code. The stated purpose of OCLC is to "operate a computerized, regional library center to serve the academic libraries of Ohio....designed so as to become a part of any national electronic network for bibliographic communication."[38] In 1971, an on-line computerized, shared-cataloging service became operational. Other sub-systems are in varying stages of development.[39]

Membership in OCLC is restricted to academic libraries (both state and private) associated with institutions of higher education within the state of Ohio which are operated exclusively for educational purposes in such a manner as to qualify as an exempt organization under Section 501(c) (3) of the U.S. Internal Revenue Code. Section 501(c) (3) exempts from taxation a variety of scientific, educational, charitable, and other not-for-profit, public benefit organizations. The membership elects a board of trustees who in turn elect the officers of the corporation.[40] Administrative responsibility is centered in an executive

director who is appointed by the board of trustees. Funding for OCLC operations comes from membership dues, user fees, and special grants or donations.

The impact of OCLC on the library profession has been considerable. Several groups of libraries have investigated the possibility of participating in this network, either by linking directly with the Ohio operation or by replicating it in their own areas. Others have adopted a more cautious approach. The fact remains that OCLC, after years of discussion, study and debate over the prospects of networking, actually put together a working, on-line cataloging system. Other networks such as NELINET and SOLINET are now linking with OCLC, with the eventual prospect of replicating OCLC programs separately. Whatever the benefits or disadvantages in modeling the technical components of a network after OCLC, duplicating its legal and organizational structure is an entirely different question.

Incorporation in one state can take a variety of formats. OCLC is an eleemosynary or nonprofit corporation. Public corporations are sometimes established to operate some public utility,[41] but are restricted to intrastate activities.[42] Business corporations are in it for the money and often operate in several states. In fact, there are several privately operated networks in operation at the present time. Information Dynamics Corporations BIBNET is one example of a private, profit-oriented bibliographic network.[43] Mead-Data Central's LEXIS operation is special-purpose, computer-based information system aimed at lawyers.[44] While these privately owned networks can be expected

to proliferate, they hardly form a model for a regional network of the type under consideration. Although their services might be purchased on a regional basis, a business corporation could only supply specific services, not coordinate regional library activities.

But is a non-profit corporation any better? In one sense, it may be worse since membership is restricted to qualified non-profit institutions. In Ohio this must deprive many private libraries of full participation in the network, and certainly deprives the network of input from some valuable corporate specialized information centers. It's not all that clear that Ohio law or even regulations of the Internal Revenue Service require that membership be so restricted. But the questions that might arise if a large corporation whose library belonged to OCLC were to make a large donation to OCLC and deduct the amount as a charitable contribution are obvious.

Interstate operations, even for a nonprofit enterprise, are necessarily more complex than intrastate functions. Instead of dealing with the laws of one jurisdiction, the laws of each state plus appropriate federal regulations have to be considered. Selecting the state of incorporation is only the first step.[45] The purposes and activities of the network must conform to the requirements of each state's nonprofit corporation act. In addition, network operations may end up being closely regulated by a different set of state agencies in each state.[46]

However, while interstate network operations may be more complex legally than intrastate ones, the legal barriers are not

insurmountable. Incorporation in one state as a nonprofit entity is a feasible way of offering certain computer-based services to a multi-state area, insofar as the narrow questions of legality are concerned. But there are larger-scale problems involved. A limited corporation may be an inappropriate vehicle for coordinating what is increasingly being viewed as a public resource, namely, the provision of library and information services.[47] Millions of dollars each year are spent by the states and the federal government on library services. Many states are coordinating these services into state networks.[48] Librarians themselves are pushing for recognition of information as a public asset and of library and information networks as a public utility. Coordination of public utilities and disbursement of governmental monies is not going to be left to a private, nonprofit corporation.

The disadvantages to organizing a regional interstate network as a nonprofit corporation incorporated under the laws of one state are formidable. Only libraries connected with nonprofit enterprises are likely to be admitted to membership. Full membership will be restricted to libraries within the state of incorporation, as most public or quasi-public institutions will be restricted from joining a corporation organized under the laws of a foreign state. Ownership of facilities, of the databank and control of services will largely be in the hands of the libraries of only one state. State financial support for such a private operation will be limited.

There is, in addition, at least a theoretical constitutional issue raised by such a procedure. Article I, section 10, clause 3

of the United States Constitution provides that "[n]o State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State, or with a foreign Power . . ." Although traditionally referred to as the "compact clause", this provision does on its face reach not only "compacts" but also "any agreement" between states. Participation by state and public libraries in a cooperative network with the libraries of other states, at least some of these libraries clearly qualifying as state agencies, could be construed as implying an agreement among the states involved to participate in a program of cooperative library services requiring Congressional approval.

In Holmes v. Jennison,[49] the Supreme Court did give a broad meaning to the term "agreement" in the compact clause and applied it to all conceivable consensual arrangements - formal or informal, written or unwritten. Thus, formally enacted compacts are not the only interstate arrangements subject to Congressional scrutiny. However, not every interstate agreement, compact or not, falls under the compact clause. The opinion in Virginia v. Tennessee[50] restricted the requirement of Congressional consent to agreements which would affect the "political power or influence" of particular states and "encroach....upon the full and free exercise of Federal authority."[51] The result, therefore, "is that any arrangement between states affecting the political power or influence of any states or encroaching upon the full and free exercise of federal authority is subject to the requirements of the compact clause, whether the arrangement is formal or informal, or written or unwritten. Moreover, . . .such arrangements

may be within the clause's coverage whether made between states as such or between subdivisions of different states."[52]

Two questions arise. First, will the creation of an interstate network by an act of incorporation within one state affect the "political power or influence" of that state vis-a-vis the other participating states? Secondly, in light of the National Commission's view that "libraries and information centers [are] a national knowledge resource to be sustained and integrated for all citizens to use in the course of their personal and economic pursuits,"[53] will the creation of such a network "encroach . . . upon the full and free exercise of Federal authority?"

The answers to these questions are not clear. In light of the generally favorable treatment the courts have shown state involvement in interstate cooperative programs,[54] indeed in light of the general lack of litigation in this area, the practical problems raised may be minimal. But the future is always uncertain. In fact, coordination of state networks and development of regional library services is an area where the contributions of traditional cooperative approaches are necessarily limited. If regional interstate library networking were merely a matter of providing low-cost services designed to encourage a sharing of resources, that might not be so. What is really involved, however, is the effective administration of a high-cost public service with political overtones on a multi-state basis. For interstate activities at this level, a legal instrument is needed which will have equal effectiveness in each state involved. For that, governmental participation is required and the only alternatives

are two: (1) assumption of responsibility and control by the federal government, perhaps through a federal corporation of the Tennessee Valley Authority type; or (2) resort to an interstate compact to create a multi-state agency.

Federal Regional Authority

In theory, the nature of the Federal system does not take into account the existence of interests more comprehensive than states yet less inclusive than the nation. The region does not have a formal legal place in the political system. Rather it must gain its institutional character by Federal, interstate or joint Federal-state action.[55] Moreover, a regional organization lives a precarious existence since it must serve regional interests without subverting national or state goals. Nevertheless, regional institutions have gained increasing prominence. Richard Leach calls regionalism "a major new development in modern American Federalism. [56] A lead story in the National Observer a few months ago proposed replacing the 50 states with 20 regional republics.[57] Some two years ago President Nixon, in Executive Order No. 11647, established a Federal Regional Council for each of the ten standard Federal administrative regions.[58]

Each of these Councils is composed of the directors of the regional offices of the Departments of Labor, HEW, HUD, OEO, EPA, LEAA, and a Secretarial Representative of the Department of Transportation. The function of each Federal Regional Council is to have the participating agencies "conduct their grantmaking activities in concert through:

(1) the development of short-term regional interagency strategies and mechanisms for program delivery;

(2) the development of integrated program and funding plans with Governors and local chief executives;

(3) the encouragement of joint and complementary grant applications for related programs;

* * *

(6) the development of long-term regional interagency and intergovernmental strategies for resource allocations to better respond to the needs of states and local communities;

* * *

(8) the development of administrative procedures to facilitate day-to-day interagency and intergovernmental cooperation."[59]

The creation of federal-state commissions aimed at improving the economic conditions of certain depressed areas of the country such as Appalachia and the Ozarks is a further example of the federal government's willingness to adopt a regional view in certain types of problem-solving administration.[60] There are many other examples of such regional orientation by the national government. One of the earliest and best known is the Tennessee Valley Authority.

TVA is perhaps a classic example of a federal agency organized on a regional basis, the region in this instance being the valley of the Tennessee River and its tributaries, an area encompassing

portions of seven states. The act which set up the Authority in 1933 gave it power "to improve the navigation and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands...; to provide for the agricultural and industrial development of said Valley; ... and for other purposes."[61]

From this act, TVA developed an amazing number of activities, including navigation, flood control, power operations, fertilizer and munitious research and development, including the operation of manufacturing facilities, forestry and soil conservation, recreation, malaria control, education, and even library development.[62] TVA is a federal agency, established by Congressional legislation in an area in which the federal interest is clear. Federal control over navigable streams dates back to Gibbons v. Ogden,[63] and the interest has been extended to the entire ranges of activities involved in river basin development, "as broad as the needs of commerce."[64]

The commerce clause would also be one possible source of Congressional authority over the knowledge and information resources of the country. On the other hand, the taxing and spending power of the federal government has been accepted for some time as nearly unlimited,[65] and the use of grants-in-aid[66] could possibly establish an agency very nearly resembling TVA. The current pattern for such a federally organized regional library network are the ten regional medical libraries established under the Medical Library Assistance Act of 1965.[67] The regional node of this network was not established by constructing a new

facility, but by grants to an existing public or private non-profit medical library with the potential for serving as a regional medical library. The funds were actually made available through performance contracts as the libraries had to agree to certain conditions and meet certain standards. As yet, network development within each of the ten regions is not highly developed. No regional medical library has yet begun operating an interstate bibliographic network of the OCLC type, for instance. But as legal entities, they are well-suited to this purpose.

If federal initiative in library networking were limited to scientific and technical fields in the foreseeable future, it would be quite understandable. Medical research has been given high priority to date. The Committee on Scientific and Technical Information (COSATI) and the Committee on Scientific and Technical Communication (SATCOM) serve as foci for similar interests.[68] Nevertheless, as discussed previously, many political scientists have pointed out a gradual shift of power from the states to the federal governmental over the last century.[69] The trend identified is the transfer of effective power of political decision-making to higher governmental levels encompassing wider geographic areas. Common examples are the transfer of major social welfare responsibilities from the states to the federal government and the transfer of major business regulation to such agencies as the ICC and SEC. More recent examples indicate an expansion of these centralization tendencies to include the allocation of natural resources and control of

the quality of the environment. Increasing concern with library networking, in itself, may be anticipating an inherent tendency to organize information resources over a wider region, as was proposed by the National Commission on Libraries and Information Science.[70]

State governments have been aware of this increasing centralization of power for some time. The moans over federal encroachment on states' rights were once quite prevalent. In recent years, states have begun to adopt intermediate devices for regional centralization of power and so retard the passing up to the federal government many areas of interstate concern. The device most frequently used has been the interstate compact.[71]

Interstate Compact

The interstate compact provides the states of our federal union with the treaty-making power of independent sovereign nations.[72] Although an interstate compact is almost always enacted as a statute in each jurisdiction which is a party to it, compacts effectively act as contracts between the signatory parties.[73] The potential of such interstate agreements for disruption of the federal fabric is so great, that a clause was inserted in the Constitution governing their use.[74]

Article I, Section 10 of the U.S. Constitution absolutely prohibits states from entering into treaties with foreign powers, and conditions the right of a state to enter into an agreement or compact with another state upon the consent of Congress. Subsequent interpretation by the Supreme Court established the rule that only those agreements which affect the political balance within the federal system or which affect a power delegated

to the national government must be approved by Congress.[75] As a practical matter, Congressional consent is sought and obtained in almost every case. Sometimes Congress will even grant advance consent to interstate compacts to encourage state cooperation in fields where Congress would like to see more action.[76] Failure to obtain Congressional consent is not necessarily destructive, as the Constitution does not specify either a time or method for Congressional approval. Failure of Congress to object actively to the continued operation of the Southern Regional Education Compact may well indicate an informal or implied grant of consent,[77] especially since segregation in the operation of SREB facilities is no longer the issue it once was. In addition, extensive debate at the time over the question of consent to this compact characterized the agreement as being of such character as not to require Congressional approval in the first place.[78]

Initially, the use of the compact device was restricted to the settlement of boundary disputes.[79] In fact, until the landmark Colorado River and New York Port Authority compacts of the 1920's, nearly every interstate compact in existence concerned boundary matters in the narrowest sense. This situation was largely a matter of history. The ill-defined boundaries of the original colonies led to numerous controversies. These disputes were usually resolved by negotiation, with the resulting agreement subject to approval by the Crown. This pattern of negotiation between the states and approval by the national government was retained in the Constitution. The only alternative

method of dispute settlement between states provided by the Constitution is trial by the Supreme Court. Early experiences with this approach were less than completely satisfactory. Virginia and West Virginia went to Court nine times over a span of several years before settling their differences.[80]

In the last fifty years, however, states have been much more creative in the use of compacts. Now, in addition to settlement of interstate disputes, compacts are used to establish mutual aid programs, set up study and recommendatory commissions, regulate multijurisdictional resources, and provide a variety of interstate services.[81] From one-time resolution of interstate disputes, the compact has evolved into a device which is increasingly used to establish agencies concerned with the indefinite long-term administration of continuing interstate problems.

Although over 150 compacts of varying types are now in existence,[82] no detailed classification scheme yet exists. For our purposes, however, four categories of interstate compacts might be of interest.[83] First, there are natural resource development or public welfare compacts, such as the water and fishery compacts.[84] The interest being protected or fostered is general to the entire region involved. User charges are negligible, but it is reasonable and politically acceptable to resort to general state revenues for supporting funds. Interestingly enough, informal federal involvement in this type of compact is common.

Congress regularly appropriates funds for operating costs to interstate compacts in the field of conservation and water apportionment.[85] Under the Atlantic and Gulf States Marine Fisheries Compacts,[86] the U.S. Fish and Wildlife Service performs research for the compact commission. The focus of this type of compact is on the proper use of existing resources.

Regulatory compact agencies, also supported as a rule by the general budget of the signatory states, provide no services of their own but are empowered to make rules for the smooth coordination of activities that cross state lines. These agencies will often operate in one of the thirty of the 216 Standard Metropolitan Statistical Areas which occupy portions of more than one state. The Washington Metropolitan Area Transit Regulation Compact,[87] to which Maryland, Virginia, and the District of Columbia are parties, is an example of this type. This compact creates a bus-taxi regulatory commission designed to regulate routes and rates and encourage better service in the greater Washington area.

Self-sustaining proprietory service compacts, where revenue bonds and user charges carry nearly all of the financial burden, are perhaps the most famous category of compacts because of that well-known example, the New York Port Authority,[88] which has evolved into an agency with more power and greater financial resources than many state governments. As such, many persons

look to it as the prototype for all compacts. However, as one commentator pointed out, this overlooks the fact that the Authority was created and is being sustained by a set of conditions which probably do not obtain elsewhere, whether the goal be service, regulation, or resource development.[89]

Another category of compact, and one into which regional library networks will probably fall, is the non-self sustaining proprietary service compact, designed to create and operate large-scale projects, where revenue bonds and user charges may not be able to carry the bulk of the financial burden. This is the category into which most future interstate service compacts will fall if they make a serious effort to handle non-self-sustaining high-cost governmental functions.

The application of interstate compacts to library networks is not entirely theoretical; in fact, over twenty-five states have adopted an Interstate Library Compact. Illinois adopted the first compact in 1961.[90] In 1962, the Council of State Governments developed a variant version at the request of the New England state librarians.[91] The Illinois form is used primarily in the midwest, and the Council of State Governments version elsewhere. Two adjacent states, North Dakota and Minnesota, have different versions, which raises theoretical problems at least, since normally evidence of an agreement between states requires each state enact the compact in substantially identical versions.

The two versions of the Interstate Library Compact are, in fact, quite dissimilar in form, although the thrust of each might be said to be similar.

Both versions of the Interstate Library Compact seem primarily concerned with permitting local libraries to enter cooperative arrangements with libraries in contiguous states, "where the distribution of population (or of existing and potential library resources) make(s) the provision of library service on an interstate basis the most effective way of providing adequate and efficient service(s)."[92] The primary emphasis here is on the interstate metropolitan area. Each version of the compact designates a compact administrator who, unless granted other powers by his state, primarily serves as a clearinghouse and depository for any interstate agreements entered into by libraries within the state. The CSG version, as passed in New York, provides for the creation of interstate library districts by interested public library agencies and authorized cooperation programs between state library agencies of the party states.[93]

The Interstate Library Compact would be an awkward vehicle for the creation of a regional network, specifically because no separate commission or agency is established to plan and operate a network and because no commitment of funds is made for such a purpose.[94]

There is in existence one regional library network which

does derive legal authority from an interstate compact. NELINET is a sponsored program of the New England Board of Higher Education (NEBHE) and holds legal status by virtue of that sponsorship.[95] NEBHE is a non-profit educational corporation, according to the NELINET statement of Policies and Procedures.[96] Actually, the board is a creature of compact, designated by the New England Higher Education Compact[97] as the administrating body of the compact and specifically established as an agency of each state party to the compact. Nevertheless, NELINET apparently prefers to view itself as an agent of a nonprofit corporation and, like OCLC, restricts membership to "any not-for-profit library, library agency or library consortium in the New England region."[98] Non-profit libraries outside the six-state region may be granted affiliate membership.

NELINET staff are employees of NEBHE. The Director is appointed by the Executive Director of NEBHE with the advise and consent of the Executive Committee of NELINET. All fiscal and administrative support for NELINET is rendered directly by NEBHE, which retains a final veto power over all NELINET operations.

This retention of control by NEBHE over all phases of NELINET activities is interesting. Perhaps there was some doubt about the propriety of establishing a library network by an agency charged with providing "a co-ordinated educational program for... the several states of New England..., with the aim of furthering

higher education in the fields of medicine, dentistry, veterinary medicines, public health and in professional, technical, scientific, literary and other fields."[99] That is a broad mandate, of course, but it might be interpreted as restricting NELINET activities to providing library support services within the educational context. Subject to control by the NEBHE, NELINET is free to operate as a regional legal entity.

NELINET serves as a possible model for a regional network because of the existence of two other regional educational commissions. The Western Regional Education Compact[100] binds 13 western states in a program aimed primarily at sharing existing training facilities in graduate and professional education, thus expanding the pool of technically trained graduates in the health and other professions without the necessity for each state to develop comprehensive programs in a variety of fields. The compact was approved by Congress in 1953 and is patterned after the Southern Regional Education Compact, which failed to gain such consent a few years earlier largely because of opposition from the NAACP and other civil rights organizations.[101] Nevertheless, both the Western Interstate Commission for Higher Education (WICHE) and the Southern Regional Education Board (SREB) continue to sponsor a wide range of regional programs for graduate, professional and technical education.

Absorbtion by WICHE of such institutions as the Pacific

Northwest Bibliographic Center or the Rocky Mountain Bibliographic Center would not coincide with the present thrust of WICHE's activities. Furthermore, the compact speaks in terms more strictly limited to the provision of interstate training programs than does the New England compact.[102] For WICHE to become involved in networking, the compact may well have to be amended. It is almost as easy to enact a new compact.[103] On the other hand, library support is central to the educational function, resource sharing in this area parallels sharing of other educational facilities, the Supreme Court has been generally supportive of interstate cooperation, and the practice in the area of interstate agreements is so loose that this concern may be entirely academic. The successful operations of the Southern Regional Education Board for a quarter-century after its failure to achieve Congressional consent emphasize this point.

The Southern Regional Education Compact also aims principally at the "establishment, acquisition, operation and maintenance of regional educational schools and institutions."[104] However, because the compact is fairly broadly worded, because Congressional participation is not a factor, and because the members of the Board include the Governors of each state, ex officio, plus four appointed citizens from each state, expansion of SREB activities to include the operation of an interstate library network would be in large part a policy decision. The state legislatures still

control the purse strings for WICHE and SREB and the cost of a network will be a deciding factor in gaining sponsorship from either compact agency.

Another limiting factor is the present state membership in these compacts. Both the Southern and Western education compacts embrace numerous states and a large geographic area. A feasible network region might encompass only a portion of the compact area. If the network region were entirely within the compact area, no problem arises. In fact, the Southern Regional Education Compact specifically allows signatory states the right to enter supplemental agreements applicable to only a portion of the member states.[105] This is of no benefit to the states of the Southwestern Library Association, however, as four of them are members of SREB and the other two belong to WICHE.

Establishing a regional bibliographic network under the auspices of SREB, a pre-existing interstate entity, is not the best approach. Only four of the six SWLA states are currently members of the compact. Lack of Congressional consent, while not a great hinderance to date, may cause future difficulties if the regional network were to clash with other regional interests or with a national program. The Southern Regional Education Compact was not designed to support services such as those involved in library networking. In addition, state financial support may not be forthcoming. The best possibility for

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establishing an interstate library network is by a separately enacted compact, designed to fit the requirements of the region involved and requiring specific state political and financial support.

Compacts are essential to any nonfederal interstate undertaking of a formal, binding nature.[106] They represent a special commitment of a state to a permanent or long-range interstate undertaking. Compacts take precedence over ordinary state statutes;[107] by superseding the laws of individual states in much the same manner that federal legislation is supreme over state, compacts avoid the various conflict-of-laws problems involved in ordinary interstate business transactions. As programmatic devices, compacts are quite useful. They contain potentialities for greater state achievement in interstate problem-solving, although they also represent diminished state autonomy in decisions on the same matters.

Despite this last fact, state governors are enthusiastic supporters of this device, because of its merits as a tool of executive action.[108] Governors generally retain limited power over state government, especially when compared to the federal chief executive. An interstate compact frequently enables a governor to tap federal grants-in-aid and resources of sister states not otherwise available to him in promoting his own state's program. It also removes some of the legal barriers to solving

regional interstate problems: poverty in the Appalachian area, for example, can only feebly be attacked by each of the Appalachian states operating alone; together, with the assistance of the federal government's massive resources, constructive improvements can be obtained. Since most interstate compacts provide a governing board or commission for their administration, almost always comprised of gubernatorial appointees and by law required to report to him, his control over his state's bureaucracy is somewhat enhanced. This latter point, however, is a double-edged matter. His control over his state's functioning may become more complicated, less flexible, more burdened with interstate obligations which must be met if the compact is to succeed. But, probably, the feature that has always been attractive to states' rights proponents - namely, the assumption of state authority by compact in a realm which may easily be preempted under federal control - is that which especially pleases the governors. Whatever the reasons, they have shown repeatedly that they like this method of handling interstate problems.

Another strong advocate of interstate compacts is the Council of State Governments which in many years has yet to deny the merits of any of those already on the books and which has repeatedly utilized as exemplary models such powerful interstate arrangements as the Port of New York Authority, the Delaware

River Commission, the Interstate Oil and Gas Compact, and the like.[109]

Interstate compacts are still, after all these years, essentially experimental in the American system. Their full potentialities remain untapped. Within the last few years, a new type of compact has emerged with even greater potential for handling large-scale regional operations in an effective way yet in such a manner as to retain a large element of local control. The federal-interstate compact offers the most direct alternative to the federal agency model for handling multi-state affairs.[110] The model for this type of agency is the Delaware River Basin Compact.[111]

The Delaware River Basin Compact creates a regional agency with territorial jurisdiction over the area of the Delaware River Basin, including areas of the signatory states (Pennsylvania, New York, New Jersey, and Delaware). The agency is to develop water resources, control water quality, improve flood control, operate facilities for the generation and transmission of hydro-electric power, and set rates and charges for such power. The implementing powers agreed to by the signatories include borrowing and bond issuing powers with a pledge of the credit of the agency but not that of the signatories, the power of eminent domain, the power to adopt necessary rules and regulations, to effectuate the varied purposes of the agency. Provision is also made for

capital fund contributions from the signatories in accordance with cost-sharing provisions agreed to, but subject to the legislative appropriation of the respective parties. No mandatory obligation is imposed on any signatory with respect to finance. No individual, corporation, or political body in the Basin may undertake erection of water facilities in the Basin unless the agency approves by including that facility in the comprehensive plan.

Finances have been placed on a voluntary basis despite an anticipated deficit in the operation of various agency projects. In dealing with appropriations, the compact makes no distinction between the actual area of the basin and the whole area of the signatories--e.g., the compact sets up no "appropriation districts" within the states.

The federal government agrees to substantially the same terms except that its agreement is subject to the provision[112] that:

> Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the States and with foreign nations.

Further reservations of federal power are found in a provision for congressional approval of any water project, and in the power to withdraw the federal government as a party to the

compact "or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto...."[113] Under the allocation of cost formula, the federal government will provide about one-half of the financing for the comprehensive plan for the Basin Compact.

The agency which is to exercise the compact powers consists of five members, one from each of the signatory states and one representing the federal government. Each has one vote, and no action is to be taken except on a majority vote of the total membership.

Although the validity of the several compacts which the federal government has entered has not been litigated in the courts, the Supreme Court repeatedly has expressed itself in favor of the compact device to solve regional problems.[114]

There also would seem to be little merit in the possible objection that federal entry into a federal-interstate compact with regulatory powers would amount to an unlawful delegation of regulatory powers over interstate commerce. Congress has been said to have a broad choice of regulatory agencies to carry out the law in areas in which the federal power to act is clear,[115] and the doctrine is well established that Congress may confer upon the states power to regulate commerce in ways they otherwise could not.[116] Even without an expressed reservation such as

that contained in the Delaware River Basin Compact, it would seem that under the supremacy clause alone the federal will would prevail in the event of conflict between a compact policy and a later-enacted federal policy.[117]

A federal-interstate compact seems to be an ideal form for channeling federal funds into multi-state services while retaining a high degree of state participation. A federal authority on the TVA model would assume control of local and state facilities built up over years of effort and sensitivity to local priorities. Eschewing federal assumption of regional functions as in TVA in favor of the compact device encourages a responsiveness to the people being served.[118] The independent federal agencies amount to a fourth branch of government, and are the least accountable, most independent branch of all.[119] While interstate compacts have not been noted for their responsiveness, in large part because of the reputation of the New York Port Authority for independent action, and despite the fact that federal agencies can demonstrate a high degree of sensitivity to the people they regulate, on the whole a compact device offers more opportunity to construct a mechanism for accountability and responsiveness than does an independent federal agency.

A federal-interstate compact has a further advantage. Whereas the consent statute to a normal interstate compact does not impose a binding obligation on the federal government to

support the compact,[120] a federal-interstate compact binds the agencies of the federal government to uphold and support the agreement. In the words of the Advisory Commission on Intergovernmental Relations:[121]

Conclusion

For establishing an interstate library network, the federal-interstate compact offers an attractive device. Federal participation means solid funding and compatability with emerging national information systems. State participation ensures input from participating libraries. The compact would be a legal instrument recognized equally by the federal and participating state governments. The operating commission would be an agency of each signatory government, but operating freely across state lines. From the point of view of stability, long-range expansion of services, adequate funding and systems compatability, the federal-interstate compact is a very attractive device.

Enactment and ratification of a compact will be more complicated than a simple act of incorporation. A study commission with members from each party who might join must be formed to draft the compact.[122] Then the text will have to be enacted into law by Congress and each state. Both of these procedures can be expected to be time-consuming. Some very persuasive advertising must be done in advance. But the results, in the nature of a firmly established, comprehensive interstate library network, should well be worth the effort.

FOOTNOTES

*A.B. Harvard 1965, J.D. University of Minnesota 1968, M.L.S. University of Pittsburgh 1971. Assistant Law Librarian, University of Texas School of Law. The author wishes to thank the Southwestern Library Interstate Cooperative Endeavor for the opportunity to pursue this research, and the Council of Library Resources for the motivating financial support.

1. The six states are Arizona, Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

2. SLICE OFFICE REP. FOR THE PERIOD JANUARY 1, 1973 TO MARCH 31, 1973 at 8 (1973).

3. A Proposal to Further Develop the Southwestern Library Interstate Cooperative Endeavor (SLICE) Project of the Southwestern Library Association, Inc., Dec. 15, 1972, at 6.

4. See, e.g. Swank, The Pacific Northwest Bibliographic Center, in READER IN LIBRARY COOPERATION 290 (M. Reynolds ed. 1972).

5. M. Duggan, Multi-State Regional Networking, March 1973 (Working paper presented at the MPLA Conference on Interstate Interlibrary Cooperation, Lyons, Colo., May 23-25, 1973) at 18.

6. For a relatively new and highly theoretical contribution, see Reisman & Simson, Interstate Agreements in the American Federal System, 27 RUTGERS L. REV. 70 (1973).

7. Elazar, The New Federalism: Can the States Be Trusted?, 35 PUB. INTEREST 89 (1974); Rosenthal, The Current Scene: Approaches and Reproaches, A Symposium, Intergovernmental Relations: Insights and Outlooks, 28 PUB. ADMIN. REV. 3 (1968).

8. The Commission has been holding hearings around the country and has requested professional and public reaction to its whitepaper. See National Comm'n on Libraries and Information Science, A New National Program of Library and Information Service, Draft, Oct. 1973, reprinted in 64 SPECIAL LIB. 583 (1973).

9. D. WAITE, LIBRARY NETWORKS, BOOK I at 2 (1972).

10. "A network is 'a systematic and planned organization of separate autonomous units interconnected for the purpose of achieving some goal that is more than any one of the units can achieve individually'." M. Duggan, supra note 5, at 1.

11. B. ALDISS, BILLION YEAR SPREE 3 (1973).

12. The total output of the American book publishing industry in 1973, excluding government publications and graduate theses, was 39,951,

up 5% from 1972. PUBLISHERS WEEKLY, Feb. 4, 1974, at 53. Since 1967 the average price of hardcover books has risen nearly 50%, from $8.43 in 1967 to $12.20 in 1973. Id. at 57. Periodical prices have risen over 50% in the period 1967-1972, while other serials have increased over 30%. Atkinson, Prices of U.S. and Foreign Published Materials, 1973 BOWKER ANN. OF LIB. & BOOK TRADE INFORMATION 328, 330-31. Statistics on American academic libraries for 1963-1973 reveal a near doubling in the size of collections, from a total of 227 million volumes to 425 million. Total expenditures on the other hand have more than tripled, from 246 million dollars in 1963 to 850 million dollars in 1973. 1973 BOWKER ANN. OF LIB. & BOOK TRADE INFORMATION 293,299.

13. D. WAITE, supra note 9, at 7 et seq.

14. See, e.g., Kilgour, Long, Landgraf & Wyckoff, The Shared Cataloging System of the Ohio College Library Center, 5 J. LIB. AUTOMATION 157 (Sept. 1972).

15. See, for example, the NCLIS whitepaper cited in note 8 and Licklider, A Hypothetical Plan for a Library - Information Network, in PROCEEDINGS OF THE CONFERENCE ON INTERLIBRARY COMMUNICATIONS AND INFORMATION NET WORKS 310, 313-15 (J. Becker ed. 1971).

16. Dixon, Constitutional Bases for Regionalism: Centralization; Interstate Compacts; Federal Regional Taxation, 33 GEO. WASH. L. REV. 47, 51-55 (1964).

17. Campbell, Are the States Here to Stay?, 28 PUB. ADMIN. REV. 26 (1968).

18. For a summary of the history and structure of the Council, see REPORT OF THE CONNECTICUT COMMISSION ON INTERGOVERNMENTAL COOPERATION (1941).

19. For example, the National Association of Attorneys General.

20. The Uniform Commercial Code is the most successful example.

21. For a fuller discussion, see Reisman & Simson, supra note 6, at 81 et seq.

22. State and Local Fiscal Assistance Act of 1972, 86 Stat. 19 (1972) (Codified in scattered sections of titles 26 and 31 of U.S.C.).

23. Council of State Governments, Federal-State Relations, S. DOC. NO. 81, 81st Cong., 1st Sess. 134-36 (1949). "Through the grants-in-aid, the National Government influences, and to some extent controls, 75 percent of the total activities of State governments." Id. at 135. For different views, see Monypenny, Federal Grants-in-Aid to State Governments; A Political Analysis, 13 NAT'L TAX J. 1, 11-16 (1960).

24. Federal Regional Councils, Exec. Order No. 11647 (Feb. 10, 1972), 37 F.R. 3167, 31 U.S.C.A. § 16 n. (Supp. 1973).

25. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, MULTISTATE REGIONALISM (1972) (Su Doc Y3.Ad 9/8: 2 M91).

26. Working Group Summary Report, PROCEEDINGS OF THE CONFERENCE ON INTER-LIBRARY COMMUNICATIONS AND INFORMATION NETWORKS 215 (J. Becker ed. 1971) (hereinafter cited as PROCEEDINGS).

27. National Comm'n on Libraries and Information Science, supra note 8.

28. See Casey, Emerging State and Regional Library Networks, in PROCEEDINGS, supra note 27, at 44.

29. Other such special-purpose networks are described in Hoshovsky & Album, Toward a National Technical Information System, 16 AM. DOCUMENTATION 313 (1965) and Simpson, The Evolving U.S. National Scientific and Technical Information System, in READER IN LIBRARY COOPERATION 331 (M. Reynolds ed. 1972).

30. See, e.g., Dammers, Integrated Information Processing and the Case for a National Network, in READER IN LIBRARY COOPERATION 372 (M. Reynolds ed. 1972); National Comm'n on Libraries and Information Science, supra note 8.

31. New England Library Information Network (NELINET), Policies and Procedures.

32. Ohio College Library Center, Amended Articles of Incorporation (1970).

33. 42 Stat. 174 (1921); N.Y. Sess. Laws 1921; ch. 154, N.J. Laws 1921, ch. 151; 42 Stat. 822 (1922); N.Y. Sess. Laws 1922, ch. 43; N.J. Laws 1922, ch. 9.

34. Medical Library Assistance Act of 1965, 42 U.S.C. § 2806 (1970, Supp. 1972).

35. See, e.g., Swank, supra note 4, and M. Duggan, supra note 5, at 18.

36. The New York Public Library and the libraries of Harvard, Yale and Columbia Universities have established, by contract, a shared acquisition program supported by a materials exchange-photocopy system that recently attracted attention. Pace, Four Major Libraries Combine Research Operations, N.Y. Times, March 24, 1974. Needless to say, service contracts such as this would be hard pressed to support a complete networking operation.

37. See D. WAITE, supra note 9.

38. Ohio College Library Center, Amended Articles of Incorporation, art. 3 (1970).

39. Kilgour, Long, Landgraf & Wyckoff, supra note 14.

40. OHIO COLLEGE LIBRARY CENTER, CODE OF REGULATIONS, arts. V & VI.

41. COUNCIL OF STATE GOVERNMENTS, PUBLIC AUTHORITIES IN THE STATES 3 (1953); Comment, An Analysis of Authorities: Traditional and Multicounty, 71 *MICH. L. REV. 1376, 1377-80* (1973).

42. Authorities are almost always created by legislation. Comment, supra note 41, at 1380. The interstate parallel would be interstate authorities created by interstate compact or agreement.

43. See D. WAITE, supra note 9, for a description of this service.

44. Lexis Primer (Mead Data Central, Inc. 1973).

45. In Oklahoma, for instance, the law provides that: "Three or more natural persons legally competent to enter into contracts may form a nonprofit corporation under this act." 18 OKLA. STAT. ANN. § 853 (Supp. 1974) (emphasis added).

46. See, for example, 6 ARK. STAT. § 64-1916 (Bobbs-Merrill 1966).

47. National Comm'n on Libraries and Information Science, supra note 8.

48. Casey, supra note 28.

49. 39 U.S. (14 Pet.) 539 (1840).

50. 148 U.S. 503 (1893).

51. Id. at 520.

52. Engdahl, Interstate Urban Areas and Interstate "Agreements" and "Compacts": Unclear Possibilities, 58 GEO. L. J. 799, 808 (1970). For a less restrictive view, see Ferguson, The Legal Basis for a Southern University - Interstate Agreements without Congressional Consent, 38 KY. L. J. 347, 348-55 (1950).

53. National Comm'n on Libraries and Information Science, supra note 8, at Preface.

54. See, e.g., Annot., Constitutionality, Construction, and Application of Compacts and Statutes Involving Cooperation Between States, 134 A.L.R. 1411 (1941).

55. For a discussion of the history of regionalism in this country, see ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, MULTISTATE REGIONALISM 1-9 (1972).

56. R. LEACH, AMERICAN FEDERALISM 232 (1970).

57. Hacker, A 16-State Nation: Dr. Stanley Brunn's Magic Geography, National Observer, July 28, 1973, at 1, col. 2.

58. Exec. Order No. 11647 (Feb. 10, 1972), 37 F.R. 3167, 31 U.S.C.A. § 16n. (Supp. 1973).

59. Id.

60. The Appalachian Regional Commission was the forerunner. The impetus came in large measure from state groups, but the ARC rests its authority on the Appalachia Regional Redevelopment Act of 1965, 79 Stat. 5 (1965). Shortly thereafter, the Coastal Plains Regional Commission, New England Regional Commission, Four Corners Regional Commission, Upper Great Lakes Regional Commission and Ozarks Regional Commission were established by the Public Works and Economic Development Act of 1965, 79 Stat. 552 (1965).
For more detail see ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, supra note 55, at 13-93.

61. 16 U.S.C. § 831 (1970). The Tennessee Valley Authority Act of 1933 is codified at 16 U.S.C. §§ 831-831c, 831d-831h-1, 831i-831o, and 831g-831dd (1970).

62. The library development program has been a source of considerable pride to TVA supporters. When the Authority was constructing dams in remote areas of the Valley it felt a responsibility to its employees to provide library services. The problem was the method by which such services were to be made available. One approach would have been for TVA to purchase books and circulate them among its employees. In line with its "grass-roots" approach, however, it decided to contract with local government authorities to provide this service and to pay them for it. As a consequence, county libraries came into existence where none had existed, and provision for a temporary situation developed into a permanent service provided by the local governments to their citizens. THE SOUTHERN ASSEMBLY, STATE GOVERNMENTS IN THE SOUTH 55 (1956).

63. 22 U.S. (9 Wheat.) 1 (1824).

64. United States v. Appalachian Elec. Power Co., 311 U.S. 377, 426 (1940). See also, Grad, Federal-State Compact: A New Experiment in Co-operative Federalism, 63 COLUM. L. REV. 825, 840-42 (1963).

65. The sweeping nature of this power is demonstrated by Oklahoma v. United States Civil Serv. Comm'n, 330 U.S. 127 (1947); Steward Mach. Co. v. Davis, 301 U.S. 548 (1937).

66. See Grad, supra note 64, at 831-33 and works cited therein.

67. 42 U.S.C. § 2806 (1970, Supp. 1972).

68. See Simpson, supra note 29, at 331-33.

69. Dixon, supra note 16, at 51-55; ANDERSON, THE NATION AND THE STATES, RIVALS OR PARTNERS? passim (1955); J. CLARK, THE RISE OF A NEW FEDERALISM 1-5 (1938). See text at note 16 supra.

70. Supra note 8.

71. See COUNCIL OF STATE GOVERNMENTS, INTERSTATE COMPACTS 1783-1966, A COMPILATION (1966) for a comprehensive list which is updated biennially in the Council's BOOK OF THE STATES.

72. 1A A. SUTHERLAND, STATUTORY CONSTRUCTION § 32.03 (4th ed. C. Sands 1972).

73. F. ZIMMERMAN & M. WENDELL, THE LAW AND USE OF INTERSTATE COMPACTS 1-2 (1961).

74. U.S. CONST. art. I. § 10, cl. 3.

75. Virginia v. Tennessee, 148 U.S. 503 (1893). For an extended commentary see Engdahl, Characterization of Interstate Arrangements: When Is a Compact not a Compact?, 64 MICH. L. REV. 63, 66-75 (1965).

76. E.g., 46 U.S.C. § 412 (1970) (crime control and law enforcement); 15 U.S.C. § 1358 (1970) (release of results of scientific research to business and industry); 16 U.S.C. § 552 (1970) (forest and water conservation); 40 U.S.C. § 461(f) (1970) (interstate urban planning. These last three pieces of legislation carry the common proviso that the compacts not be inconsistent with federal law.

77. Ferguson, supra note 52, at 356-57.

78. Hearings on S.J. Res. 191 Before the Senate Judiciary Comm., A Joint Resolution Giving the Consent of Congress to the Compact on Regional Education, 80th Cong., 2d Sess., at 70-71 (1948). See also R. SUGG, JR. & G. H. JONES, THE SOUTHERN REGIONAL EDUCATION BOARD: TEN YEARS OF REGIONAL COOPERATION IN HIGHER EDUCATION (1960). See also the statements of Senator Morse at 94 CONG. REC. 5777 (May 13, 1948).

79. Frankfurter & Landis, The Compact Clause of the Constitution - A Study in Interstate Adjustments, 34 YALE L. J. 685, 692 (1925). This landmark historical analysis of the compact clause has been supplemented by F. ZIMMERMANN & M. WENDELL, THE INTERSTATE COMPACT SINCE 1925 (1951) and Engdahl, supra note 75. Two articles which explore future possibly novel applications of compacts are Grad, supra note 64, and Dixon, supra note 16. For other articles and monographs on the subject, see the bibliography appended to this paper.

80. See Frankfurter & Landis, supra note 79, at 738-39.

81. COUNCIL OF STATE GOVERNMENTS, supra note 71.

82. Id.

83. This categorization follows Dixon, supra note 16, at 57-60.

84. R. LEACH & R. SUGG, JR., THE ADMINISTRATION OF INTERSTATE COMPACTS passim (1959).

85. Id. at 50.

86. 56 Stat. 267 (1942); 63 Stat. 70 (1949).

87. 74 Stat. 1031 (1960).

88. 42 Stat. 174 (1921), consent to supplemental agreement, 42 Stat. 822 (1922). For text of the compact see THE PORT OF NEW YORK AUTHORITY TREATIES AND STATUTES 7 (1948).

89. Dixon, supra note 16, at 59.

90. 81 ILL. STAT. ANN. § 101-104 (Smith-Hurd 1966). See McClarren, State Legislation Relating to Library Systems, 19 LIB. TRENDS 235, 244-45 (1970); Wendell, An Interstate Compact for Libraries, 54 ALA BULL. 134 (Feb. 1964).

91. For the text of this version see N.Y. EDUC. LAW § 297n. (McKinney 1969) (Interstate Library Compact).

92. Interstate Library Compact, art. I, in N.Y. EDUC. LAW § 297n. (McKinney 1969), at 204.

93. N.Y. EDUC. LAW §§ 293-97 (McKinney 1969) (Interstate Library Districts and Interstate Library Compact (following § 297)).

94. The Council of State Governments also takes the view that the limited scope of this compact excludes it from the requirement of Congressional consent. COUNCIL OF STATE GOVERNMENTS, supra note 71, at 75.

95. NEW ENGLAND LIBRARY INFORMATION NETWORK (NELINET), POLICIES AND PROCEDURES § 1.10.

96. Id. at § 2.10.

97. 68 Stat. 982 (1954).

98. Supra note 95, at § 3.10.

99. New England Higher Education Compact, art. I, 68 Stat. 982 (1954).

100. 67 Stat. 490 (1953).

101. The history of this failure is traced by W. BARTON, INTERSTATE COMPACTS IN THE POLITICAL PROCESS 129-140 (1965) and by V. THURSBY, INTERSTATE COOPERATION, A STUDY OF THE INTERSTATE COMPACT 113-123 (1953).

102. The Western Regional Education Compact, art. I, provides in part: "WHEREAS, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and WHEREAS, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof: ..." The compact goes on to create a Commission with power to enter contracts for "graduate or professional educational services", to contract for student placement, and to research the educational needs of the region and report on its finding. Art. VIII.

103. Unless the compact has a provision on amendment procedure, which is usually concerned with procedural or administrative facets, the amending process is a replication of the enactment process. See F. ZIMMERMANN & M. WENDELL, supra note 73, at 10-11.

104. Southern Regional Education Compact, para. 1.

105. Id. at para. 5.

106. F. ZIMMERMANN & M. WENDELL, supra note 73, at 40; M. RIDGEWAY, INTERSTATE COMPACTS: A QUESTION OF FEDERALISM 294 (1971).

107. Congressional consent raises an interstate compact to the status of federal legislation. Delaware River Joint Toll Bridge Comm'n v. Colburn, 310 U.S. 419 (1940). Furthermore, as between the compacting states, the compact is a binding contract subject to the Constitutional provision prohibiting states from impairing the obligation of contracts. U.S. CONST. art. I, § 10; Green v. Biddle, 21 U.S. (8 Wheat.) 1 (1923); Delaware River Joint Toll Bridge Comm'n v. Colburn, supra at 427.

108. M. RIDGEWAY, supra note 106, at 45.

109. The writings of Frederick Zimmermann and Mitchell Wendell, supra notes 73 and 79, and their biennial survey of interstate compacts in the Council's BOOK OF THE STATES, as well as their work in the development and drafting of many interstate compacts, represent the Council's view. See the statement of Breyard Crikfield, Executive Director, The Council of State Governments, Foreword, F. ZIMMERMANN & M. WENDELL, supra note 73, at v-vi. This work was prepared as a drafting manual on interstate compacts for The National Association of Attorneys General.

110. See Grad, Federal-State Compact: A New Experiment in Co-operative Federalism, 63 COLUM. L. REV. 825 (1963); Dixon, Constitutional Bases for Regionalism: Centralization; Interstate Compacts; Federal Regional

Taxation, 33 GEO. WASH. L. REV. 47 (1964); ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, MULTISTATE REGIONALISM 155-164, 216-218 (1972).

111. 75 Stat. 688 (1961).

112. Id. at 691.

113. Id.

114. West Virginia ex rel. Dyer v. Sims, 341 U.S. 22, 27-28 (1951); New York v. O'Neill, 359 U.S. 1, 10-11 (1959).

115. McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819).

116. Prudential Ins. Co. v. Benjamin, 328 U.S. 408 (1946); In re Rahrer, 140 U.S. 545 (1891).

117. Pennsylvania v. Wheeling & Belmont Bridge Co., 59 U.S. (18 How.) 421, 433 (1855); see also S. REP. NO. 854, 87th Cong., 1st Sess. 48 (1961).

118. The creation of a federal regional authority such as TVA also requires many favorable conditions before establishment which may be difficult to replicate. See Grad, supra note 110, at 839; F. ZIMMERMAN & M. WENDELL, supra note 79, at 118-20.

119. THE PRESIDENT'S ADVISORY COUNCIL ON EXECUTIVE REORGANIZATION, A NEW REGULATORY FRAMEWORK: REPORT ON SELECTED INDEPENDENT REGULATORY AGENCIES (1971) (Often cited as the ASH COUNCIL REPORT; Su Doc Pr 37.8: Ex3/R26).

120. Delaware River Joint Toll Bridge Comm'n v. Colburn, 310 U.S. 419 (1940); Hinderlider v. La Plata River & Cherry Creek Ditch Co., 304 U.S. 92 (1938).

121. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, supra note 110, at 156.

122. Determining the membership of such a drafting commission is not easy. Certainly representatives from the library profession of each state should be included. Federal representatives should include someone from the National Commission and perhaps the Library of Congress. A member to represent each state Governor, and perhaps other gubernatorially appointed members, shall also be included. Valuable input could be obtained by including representatives from the national as well as the various state advisory commissions on intergovernmental relations. Drafting expertise is available from the Council of State Government. Since the composition of this drafting commission will have a great impact on the eventual shape of the network organization, time and effort should be spent soliciting views from the state executives, the state libraries, the state library organizations, and the National Commission.

SELECTED COMPACTS

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The Council of State Governments has prepared for the National Association of Attorneys General a manual on the drafting of interstate compacts. See F. L. ZIMMERMAN & M. WENDELL, THE LAW AND USE OF INTERSTATE COMPACTS 57-88 (1961). However, the drafting of a regional interstate library compact may benefit from the documents of certain related efforts. For that reason, portions of the following six compacts are included here as an appendix:

Interstate Library Compact (Illinois version)

Interstate Library Compact (New York version)

Southern Regional Education Compact

Western Regional Education Compact

New England Higher Education Compact

Delaware River Basin Compact

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Interstate Library Compact, 81 ILL. STAT. ANN. §§ 101-104 (Smith-Hurd 1966), as amended (Supp. 1974).

INTERSTATE LIBRARY COMPACT

§ 101. Execution of compact

The interstate library compact is hereby enacted into law and entered into on behalf of this state with any state bordering on Illinois which legally joins therein in substantially the following form:

INTERSTATE LIBRARY COMPACT

The contracting states agree that:

ARTICLE I—PURPOSE

Because the desire for the services provided by public libraries transcends governmental boundaries and can be provided most effectively by giving such services to communities of people regardless of jurisdictional lines, it is the policy of the states who are parties to this compact to co-operate and share their responsibilities in providing joint and co-operative library services in areas where the distribution of population makes the provision of library service on an interstate basis the most effective way to provide adequate and efficient services.

ARTICLE II—PROCEDURE

The appropriate officials and agencies of the party states or any of their political subdivisions may, on behalf of said states or political subdivisions, enter into agreements for the co-operative or joint conduct of library services when they shall find that the executions of agreements to that end as provided herein will facilitate library services.

ARTICLE III—CONTENT

Any such agreement for the co-operative or joint establishment, operation or use of library services, facilities, personnel, equipment, materials or other items not excluded because of failure to enumerate shall, as among the parties of the agreement: (1) detail the specific nature of the services, facilities, properties or personnel to which it is applicable; (2) provide for the allocation of costs and other financial responsibilities; (3) specify the respective rights, duties, obligations and liabilities; (4) stipulate the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of said agreement.

ARTICLE IV—CONFLICT OF LAWS

Nothing in this compact or in any agreement entered into hereunder shall be construed to supersede, alter, or otherwise impair any obligation imposed on any public library by otherwise applicable laws.

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ARTICLE V—ADMINISTRATOR

Each state shall designate a compact administrator with whom copies of all agreements to which his state or any subdivision thereof is party shall be filed. The administrator shall have such powers as may be conferred upon him by the laws of his state and may consult and co-operate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact.

ARTICLE VI—EFFECTIVE DATE

This compact shall become operative immediately upon its enactment by any state or between it and any other contiguous state or states so enacting.

ARTICLE VII—RENUNCIATION

This compact shall continue in force and remain binding upon each party state until 6 months after any such state has given notice of repeal by the legislature. Such withdrawal shall not be construed to relieve any party to an agreement authorized by Articles II and III of the compact from the obligation of that agreement prior to the end of its stipulated period of duration.

ARTICLE VIII—SEVERABILITY; CONSTRUCTION

The provisions of this compact shall be severable. It is intended that the provisions of this compact be reasonably and liberally construed. 1961, Aug. 9, Laws 1961, p. 3042, § 1.

§ 102. Administrator

The Secretary of State, ex officio, shall be the compact administrator. The compact administrator shall receive copies of all agreements entered into by the state or its political subdivisions and other states or political subdivisions; consult with, advise and aid such governmental units in the formulation of such agreements; make such recommendations to the governor, legislature, governmental agencies and units as he deems desirable to effectuate the purposes of this compact and consult and co-operate with the compact administrators of other party states. 1961, Aug. 9, Laws 1961, p. 3042, § 2.

§ 103. Agreements

The compact administrator and the library board of any county, city, village or incorporated town, township, library district or library system are authorized and empowered to enter into agreements with other states or their political subdivisions pursuant to the compact. Such agreements as may be made pursuant to this compact on behalf of the state of Illinois shall be made by the compact administrator. Such agreements as may be made on behalf of a political subdivision shall be made after due notice to the compact administrator and consultation with him.
Amended by P.A. 76-593, eff. July 31, 1969.

§ 104. Enforcement

The agencies and officers of this state and its subdivisions shall enforce this compact and do all things appropriate to effect its purpose and intent which may be within their respective jurisdiction. 1961, Aug. 9, Laws 1961, p. 3042, § 4.

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Interstate Library Compact, N.Y. EDUC. LAW § 297 n. (McKinney 1969)

INTERSTATE LIBRARY COMPACT

Laws 1963, c. 787, § 1, eff. April 26, 1963, provided:

The interstate library compact is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

ARTICLE I. POLICY AND PURPOSE

Because the desire for the services provided by the libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis, and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

(b) "Private library agency" means any non-governmental entity which operates or assumes a legal obligation to operate a library.

(c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

ARTICLE III. INTERSTATE LIBRARY DISTRICTS

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing of books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.

2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.

3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

4. Employ professional, technical, clerical and other personnel and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the in-service training of such personnel.

5. Sue and be sued in any court of competent jurisdiction.

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6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

7. Construct, maintain and operate a library, including any appropriate branches thereof.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

ARTICLE IV. INTERSTATE LIBRARY DISTRICTS, GOVERNING BOARD

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

ARTICLE V. STATE LIBRARY AGENCY COOPERATION

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor, would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

ARTICLE VI. LIBRARY AGREEMENTS

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements, or properties to which it is applicable.

2. Provide for the allocation of costs and other financial responsibilities.

3. Specify the respective rights, duties, obligations and liabilities of the parties.

4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

ARTICLE VII. APPROVAL OF LIBRARY AGREEMENTS

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state and except that in the state of New York, such agreement shall be submitted to the counsel for the state education department for such determination. The attorneys general and such counsel shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

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(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

ARTICLE VIII. OTHER LAWS APPLICABLE

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

ARTICLE IX. APPROPRIATIONS AND AID

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to it.

ARTICLE X. COMPACT ADMINISTRATOR

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

ARTICLE XI. ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

ARTICLE XII. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

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Southern Regional Education Compact (1948), reprinted in Regional Education Interstate Compact, Hearings on S.J. Res. 191 Before a Subcomm. of the Senate Judiciary Comm., 80th Cong., 2d Sess. 7-9 (1948).

(The compact is as follows:)

Whereas the States who are parties hereto have during the past several years conducted careful investigation looking toward the establishment and maintenance of jointly owned and operated regional educational institutions in the Southern States in the professional, technological, scientific, literary, and other fields, so as to provide greater educational advantages and facilities for the citizens of the several States who reside within such region; and

Whereas Meharry Medical College of Nashville, Tenn., has proposed that its lands, buildings, equipment, and the net income from its endowment be turned over to the Southern States, or to an agency acting in their behalf, to be operated as a regional institution for medical, dental, and nursing education upon terms and conditions to be hereafter agreed upon between the Southern States and Meharry Medical College, which proposal, because of the present financial condition of the institution, has been approved by the said States who are parties hereto; and

Whereas the said States desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities:

Now, therefore, in consideration of the mutual agreements, covenants, and obligations assumed by the respective States who are parties hereto (hereinafter referred to as "States"), the said several States do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting States which, for the purposes of this compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent States and derived from other sources for the establishment, acquisition, operation, and maintenance of regional educational schools and institutions for the benefit of citizens of the respective States residing within the region so established as may be determined from time to time in accordance with the terms and provisions of this compact.

The States do further hereby establish and create a joint agency which shall be known as the Board of Control for Southern Regional Education (hereinafter referred to as the "board"), the members of which board shall consist of the governor of each State, ex officio, and two additional citizens of each State to be appointed by the Governor thereof, at least one of whom shall be selected from the field of education. The governor shall continue as a member of the board during his tenure of office as governor of the State, but the members of the board appointed by the governor shall hold office for a period of 5 years, except that in the original appointment one board member so appointed by the governor shall be designated at the time of his appointment to serve an initial term of 3 years, but thereafter his successor shall serve the full term of 5 years. Vacancies on the board caused by death, resignation, refusal, or inability to serve shall be filled by appointment by the governor for the unexpired portion of the term. The officers of the board shall be a chairman, a vice chairman, a secretary, a treasurer, and such additional officers as may be created by the board from time to time. The board shall meet annually, and officers shall be elected to hold office until the next annual meeting. The board shall have the right to formulate and establish bylaws not inconsistent with the provisions of this compact to govern its own actions in the performance of the duties delegated to it, including the right to create and appoint an executive committee and a finance committee, with such powers and authority as the board may delegate to them from time to time.

It shall be the duty of the board to submit plans and recommendations to the States from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation, and maintenance of educational schools and institutions within the geographical limits of the regional area of the States, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary, or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the States and to all properties and facilities used in connection therewith shall be vested in said board as the agency of and for the use and benefit of the said States and the citizens thereof, and all such educational institutions shall be operated, maintained, and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative acts of the States authorizing the creation, establishment, and operation of such educational institutions.

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REGIONAL EDUCATION INTERSTATE COMPACT

The board shall have such additional and general power and authority as may be vested in it by the States from time to time by legislative enactments of the said States.

Any two or more States who are parties of this compact shall have the right to enter into supplemental agreements providing for the establishment, financing, and operation of regional educational institutions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such States and to be controlled exclusively by the members of the board representing such States, provided such agreement is submitted to and approved by the board prior to the establishment of such institutions.

Each State agrees that, when authorized by the legislature, it will from time to time make available and pay over to said board such funds as may be required for the establishment, acquisition, operation, and maintenance of such regional educational institutions as may be authorized by the States under the terms of this compact, the contribution of each State at all times to be in the proportion that its population bears to the total combined population of the States who are parties hereto as shown from time to time by the most recent official published report of the Bureau of Census of the United States of America, or upon such other basis as may be agreed upon.

This compact shall not take effect or be binding upon any State unless and until it shall be approved by proper legislative action of as many as six or more of the States whose governors have subscribed hereto within a period of 18 months from the date hereof. When and if six or more States shall have given legislative approval to this compact within said 18 months' period, it shall be and become binding upon such six or more States 60 days after the date of legislative approval by the sixth State, and the Governors of such six or more States shall forthwith name the members of the board from their States as hereinabove set out, and the board shall then meet on call of the Governor of any State approving this compact, at which time the board shall elect officers, adopt bylaws, appoint committees, and otherwise fully organize. Other States whose names are subscribed hereto shall thereafter become parties hereto upon approval of this compact by legislative action within 2 years from the date hereof, upon such conditions as may be agreed upon at the time.

After becoming effective, this compact shall thereafter continue without limitation of time; provided, however, that it may be terminated at any time by unanimous action of the States; and provided further, that any State may withdraw from this compact if such withdrawal is approved by its legislature, such withdrawal to become effective 2 years after written notice thereof the board, accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing State from its obligations hereunder accruing up to the effective date of such withdrawal. Any State so withdrawing shall ipso facto cease to have any claim to, or ownership of, any of the property held or vested in the board or to any of the funds of the board held under the terms of this compact.

If any State shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said State as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges, and benefits of such defaulting State, its member on the board, and its citizens shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of 1 year immediately following the date of such default, this compact may be terminated with respect to such defaulting State by an affirmative vote of three-fourths of the members of the board (exclusive of the members representing the State in default), from and after which time such State shall cease to be a party to this compact and shall have no further claim to, or ownership of, any of the property held by or vested in the board or to any of the funds of the board held under the terms of this compact, but such termination shall in no manner release such defaulting State from any accrued obligation or otherwise affect this compact or the rights, duties, privileges, or obligations of the remaining States thereunder.

In witness whereof, this compact has been approved and signed by the Governors of the several States, subject to the approval of their respective legislatures in the manner hereinabove set out, as of the 8th day of February 1948.

State of Florida, by Millard Caldwell, Governor; State of Maryland, by Wm. Preston Lane, Jr., Governor; State of Georgia, by M. E. Thompson, Governor; State of Louisiana, by J. H. Davis, Governor; State of Alabama, by James E. Folsom, Governor; State of Mississippi, by F. L. Wright, Governor; Commonwealth of Kentucky; State of Tennessee, by Jim McCord, Governor; Commonwealth of Virginia, by Wm. M. Tuck, Governor; State of Arkansas, by Ben Laney, Governor; State of North Carolina, by R. Gregg Cherry, Governor; State of South Carolina, by J. Strom Thurmond, Governor; State of Texas, by Beauford H. Jester, Governor; State of Oklahoma, by Roy J. Turner, Governor; State of West Virginia, by Clarence W. Meadows, Governor.

Western Regional Education Compact, 67 Stat. 490 (1953).

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Public Law 226 CHAPTER 380

August 8, 1953
[S. 1515]

AN ACT

Granting the consent of Congress to certain Western States and the Territories of Alaska and Hawaii to enter into a compact relating to higher education in the Western States and establishing the Western Interstate Commission for Higher Education.

Western educational compact.
Consent of Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to any five or more of the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming and the Territories of Alaska and Hawaii to enter into the following compact and agreement relating to higher education and creating the Western Interstate Commission for Higher Education.

The compact reads as follows:

ARTICLE I

WHEREAS, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

WHEREAS, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical professional, and graduate training, nor do all the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

WHEREAS, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof:

Now, therefore, the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territories of Alaska and Hawaii do hereby covenant and agree as follows:

ARTICLE II

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this Compact.

ARTICLE III

Western Interstate Commission for Higher Education.

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

ARTICLE IV

Membership, etc.

The Commission shall consist of three resident members from each compacting state or territory. At all times one Commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

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The Commissioners from each state and territory shall be appointed by the Governor thereof as provided by law in such state or territory. Any Commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each Commissioner shall be four years: *Provided, however*, That the first three Commissioners shall be appointed as follows: one for two years, one for three years, and one for four years. Each Commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the Governor shall appoint a Commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more Commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

ARTICLE VI

The Commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be required to carry out the purpose of this Compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The Commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

ARTICLE VII

The Commission shall adopt a seal and by-laws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The Chairman may call such additional meetings and upon the request of a majority of the Commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the Governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the Governors and Legislatures of the compacting states and territories a report of its activities for the preceding calendar year. Report.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be

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open at any reasonable time for inspection by the Governor of any compacting state or territory or his designated representative. The Commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

ARTICLE VIII

Contractual agreements.

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements—

(a) with the governing authority of any educational institution in the Region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) with the governing authority of any educational institution in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe.

It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources for meeting such needs, and the long-range effects of the Compact on higher education; and from time to time to prepare comprehensive reports on such research for presentation to the Western Governor's Conference and to the legislatures of the compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the Governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this Compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

ARTICLE IX

Operating costs, apportionment.

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

ARTICLE X

This Compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1953. This Compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

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ARTICLE XI

Termination.

This Compact may be terminated at any time by consent of a majority of the compacting states and territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and Governor of such terminating state.

Withdrawal.

Any state or territory may at any time withdraw from this Compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the Governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

ARTICLE XII

Default in performance of obligations.

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this Compact, all rights, privileges and benefits conferred by this Compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the Commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this Compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by: (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the Commission.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved August 8, 1953.

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New England Higher Education Compact, 68 Stat. 982 (1954).

Public Law 719 CHAPTER 1089

AN ACT

August 30, 1954
[H. R. 9712]

Granting the consent of Congress to certain New England States to enter into a compact relating to higher education in the New England States and establishing the New England Board of Higher Education.

New England Higher Education Compact.
Consent of Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to any two or more of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont to enter into the following compact and agreement relative to higher education and creating the New England Board of Higher Education.

The compact reads as follows:

ARTICLE I.

The purposes of the New England Higher Education Compact shall be to provide greater educational opportunities and services through the establishment and maintenance of a co-ordinated educational program for the persons residing in the several states of New England parties to this compact, with the aim of furthering higher education in the fields of medicine, dentistry, veterinary medicine, public health and in professional, technical, scientific, literary and other fields.

ARTICLE II.

There is hereby created and established a New England board of higher education hereinafter known as the board, which shall be an agency of each state party to the compact. The board shall be a body corporate and politic, having the powers, duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the concurrent act or acts of the compacting states. The board shall consist of three resident members from each compacting state, chosen in the manner and for the terms provided by law of the several states parties to this compact.

ARTICLE III.

This compact shall become operative immediately as to those states executing it whenever any two or more of the states of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, and Connecticut have executed it in the form which is in accordance with the laws of the respective compacting states.

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ARTICLE IV.

The board shall annually elect from its members a chairman and vice chairman and shall appoint and at its pleasure remove or discharge said officers. It may appoint and employ an executive secretary and may employ such stenographic, clerical, technical or legal personnel as shall be necessary, and at its pleasure remove or discharge such personnel. It shall adopt a seal and suitable by-laws and shall promulgate any and all rules and regulations which may be necessary for the conduct of its business. It may maintain an office or offices within the territory of the compacting states and may meet at any time or place. Meetings shall be held at least twice each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the board imposing any obligation on any compacting state shall be binding unless a majority of the members from such compacting state shall have voted in favor thereof. Where meetings are planned to discuss matters relevant to problems of education affecting only certain of the compacting states, the board may vote to authorize special meetings of the board members of such states. The board shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each compacting state, setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the compacting states which may be necessary to carry out the intent and purpose of this compact. The board shall not pledge the credit of any compacting state without the consent of the legislature thereof given pursuant to the constitutional processes of said state. The board may meet any of its obligations in whole or in part with funds available to it under Article VII of this compact: provided, that the board take specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article VII hereof, the board shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the compacting states adequate to meet the same. Each compacting state reserves the right to provide hereafter by law for the examination and audit of the accounts of the board. The board shall appoint a treasurer who may be a member of the board, and disbursements by the board shall be valid only when authorized by the board and when vouchers therefor have been signed by the executive secretary and countersigned by the treasurer. The executive secretary shall be custodian of the records of the board with authority to attest to and certify such records or copies thereof.

ARTICLE V.

The board shall have the power to: (1) collect, correlate, and evaluate data in the fields of its interest under this compact; to publish reports, bulletins and other documents making available the results of its research; and, in its discretion, to charge fees for said reports, bulletins and documents; (2) enter into such contractual agreements or arrangements with any of the compacting states or agencies thereof and with educational institutions and agencies as may be required in the judgment of the board to provide adequate services and facilities in educational fields covered by this compact: provided, that it shall be the policy of the board in the negotiation of its agreements to serve increased numbers of students from the compacting states through arrangements with then existing institutions, whenever in the judgment of the board adequate service can be so secured in the New England region. Each of the compacting states shall contribute funds to carry out the contracts of the board on the basis of the number of students from such state for whom the board may contract. Contributions shall be at the rate determined by the board in each educational field. Except in those instances where the board by specific action allocates funds available to it under Article VII hereof, the board's authority to enter into such contracts shall be only upon appropriation of funds by the compacting states. Any contract entered into shall be in accordance with rules and regulations promulgated by the board and in accordance with the laws of the compacting states.

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ARTICLE VI.

Each state agrees that, when authorized by the legislature pursuant to the constitutional processes, it will from time to time make available to the board such funds as may be required for the expenses of the board as authorized under the terms of this compact. The contribution of each state for this purpose shall be in the proportion that its population bears to the total combined population of the states who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States of America, unless the board shall adopt another basis in making its recommendation for appropriation to the compacting states.

ARTICLE VII.

The board for the purposes of this compact is hereby empowered to receive grants, devises, gifts and bequests which the board may agree to accept and administer. The board shall administer property held in accordance with special trusts, grants and bequests, and shall also administer grants and devises of land and gifts or bequests of personal property made to the board for special uses, and shall execute said trusts, investing the proceeds thereof in notes or bonds secured by sufficient mortgage or other securities.

ARTICLE VIII.

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any compacting state or of the United States the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby; provided, that if this compact is held to be contrary to the constitution of any compacting state the compact shall remain in full force and effect as to all other compacting states.

ARTICLE IX.

This compact shall continue in force and remain binding upon a compacting state until the legislature or the governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until two years after notice thereof has been sent by the governor of the state desiring to withdraw to the governors of all other states then parties to the compact. Such withdrawal shall not relieve the withdrawing state from its obligations accruing hereunder prior to the effective date of withdrawal. Any state so withdrawing, unless reinstated, shall cease to have any claim to or ownership of any of the property held by or vested in the board or to any of the funds of the board held under the terms of the compact. Thereafter, the withdrawing state may be reinstated by application after appropriate legislation is enacted by such state, upon approval by a majority vote of the board.

ARTICLE X.

If any compacting state shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights and privileges and benefits conferred by this compact or agreement hereunder shall be suspended from the effective date of such default as fixed by the board. Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state by affirmative vote of three fourths of the member states. Any such defaulting state may be reinstated by (*a*) performing all acts and obligations upon which it has heretofore defaulted, and (*b*) application to and approval by a majority vote of the board.

Approved August 30, 1954.

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Delaware River Basin Compact, 75 Stat. 688 (1961).

Public Law 87-328

September 27, 1961
[H. J. Res. 225]

JOINT RESOLUTION

To create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,.

PART I

COMPACT

Delaware River Basin Compact.

Whereas the signatory parties recognize the water and related resources of the Delaware River Basin as regional assets vested with local, State, and National interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basinwide agency will provide effective flood damage reduction; conservation and development of ground and surface water supply for municipal, industrial, and agricultural uses; development of recreational facilities in relation to reservoirs, lakes, and streams; propagation of fish and game; promotion of related forestry, soil conservation, and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the Governors of the four basin States and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-Federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof: Now therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby consents to, and joins the States of Delaware, New Jersey, and New York and the Commonwealth of Pennsylvania in, the following compact:

ARTICLE 1

SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

Section 1.1 Short title. This Act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act;

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;

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(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, required, constructed, operated or maintained for the beneficial use of water resources or related land uses including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; or the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them;

(f) "Federal government" shall mean the government of the United States of America, and any appropriate branch, department, bureau or division thereof, as the case may be;

(g) "Project" shall mean any work, service or activity which is separately planned, financed, or identified by the commission, or any separate facility undertaken or to be undertaken within a specified area, for the conservation, utilization, control, development or management of water resources which can be established and utilized independently or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation;

(h) "Signatory party" shall mean a state or commonwealth party to this compact, and the federal government;

(i) "Water resources" shall include water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control.

1.3 Purpose and Findings. The legislative bodies of the respective signatory parties hereby find and declare:

(a) The water resources of the basin are affected with a local, state, regional and national interest and their planning, conservation, utilization, development, management and control, under appropriate arrangements for intergovernmental cooperation, are public purposes of the respective signatory parties.

(b) The water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region.

(c) The water resources of the basin are functionally inter-related, and the uses of these resources are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision and coordination of efforts and programs of federal, state and local governments and of private enterprise.

(d) The water resources of the Delaware River Basin, if properly planned and utilized, are ample to meet all presently projected demands, including existing and added diversions in future years and ever increasing economies and efficiencies in the use and reuse of water resources can be brought about by comprehensive planning, programming and management.

(e) In general, the purposes of this compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the states; to encourage and provide for the planning, conservation, utilization, development, management and control of the water resources of the basin; to provide for cooperative planning and action by the signatory parties with respect to such water resources; and to apply the principle of equal and uniform treatment to all water users who are similarly situated and to all users of related facilities, without regard to established political boundaries.

1.4 Powers of Congress; Withdrawal. Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Con-

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gress to regulate commerce among the states and with foreign nations. The power and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.

1.5 Existing Agencies; Construction. It is the purpose of the signatory parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent not inconsistent with the compact, and the commission is authorized and directed to utilize and employ such offices and agencies for the purpose of this compact to the fullest extent it finds feasible and advantageous.

1.6 Duration of Compact.

(a) The duration of this compact shall be for an initial period of 100 years from its effective date, and it shall be continued for additional periods of 100 years if not later than 20 years nor sooner than 25 years prior to the determination of the initial period or any succeeding period none of the signatory states, by authority of an act of its legislature, notifies the commission of intention to terminate the compact at the end of the then current 100 year period.

(b) In the event that this compact should be terminated by operation of paragraph (a) above, the commission shall be dissolved, its assets and liabilities transferred, and its corporate affairs wound up, in such manner as may be provided by act of the Congress.

Article 2

ORGANIZATION AND AREA

Section 2.1 Commission Created. The Delaware River Basin Commission is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties.

2.2 Commission Membership. The commission shall consist of the Governors of the signatory states, ex officio, and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

2.3 Alternates. Each member of the commission shall appoint an alternate to act in his place and stead, with authority to attend all meetings of the commission, and with power to vote in the absence of the member. Unless otherwise provided by law of the signatory party for which he is appointed, each alternate shall serve during the term of the member appointing him, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

2.4 Compensation. Members of the commission and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

2.5 Voting Power. Each member shall be entitled to one vote on all matters which may come before the commission. No action of the commission shall be taken at any meeting unless a majority of the membership shall vote in favor thereof.

2.6 Organization and Procedure. The commission shall provide for its own organization and procedure, and shall adopt rules and regulations governing its meetings and transactions. It shall organize annually by the election of a chairman and vice-chairman from among its members. It shall provide by its rules for the appointment by each member in his discretion of an advisor to serve without compensation, who may attend all meetings of the commission and its committees.

2.7 Jurisdiction of the Commission. The commission shall have, exercise and discharge its functions, powers and duties within the limits of the basin, except that it may in its discretion act outside the basin whenever such action may be necessary or convenient to effectuate its powers or duties within the basin, or to sell or dispose of water, hydroelectric power or other water resources within or without the basin. The commission shall exercise such power outside the basin only upon the consent of the state in which it proposes to act.

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ARTICLE 3

POWERS AND DUTIES OF THE COMMISSION

Section 3.1 Purpose and Policy. The commission shall develop and effectuate plans, policies and projects relating to the water resources of the basin. It shall adopt and promote uniform and coordinated policies for water conservation, control, use and management in the basin. It shall encourage the planning, development and financing of water resources projects according to such plans and policies.

3.2 Comprehensive Plan, Program and Budgets. The commission shall, in accordance with Article 13 of this compact, formulate and adopt:

(a) A comprehensive plan, after consultation with water users and interested public bodies, for the immediate and long range development and uses of the water resources of the basin;

(b) A water resources program, based upon the comprehensive plan, which shall include a systematic presentation of the quantity and quality of water resources needs of the area to be served for such reasonably foreseeable period as the commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects affecting the basin, together with a separate statement of the projects proposed to be undertaken by the commission during such period; and

(c) An annual current expense budget, and an annual capital budget consistent with the water resources program covering the commission's projects and facilities for the budget period.

3.6 General Powers. The commission may:

(a) Plan, design, acquire, construct, reconstruct, complete, own, improve, extend, develop, operate and maintain any and all projects, facilities, properties, activities and services, determined by the commission to be necessary, convenient or useful for the purposes of this compact;

(b) Establish standards of planning, design and operation of all projects and facilities in the basin which affect its water resources, including without limitation thereto water and waste treatment plants, stream and lake recreational facilities, trunk mains for water distribution, local flood protection works, small watershed management programs, and ground water recharging operations;

(c) Conduct and sponsor research on water resources, their planning, use, conservation, management, development, control and protection, and the capacity, adaptability and best utility of each facility thereof, and collect, compile, correlate, analyze, report and interpret data on water resources and uses in the basin, including without limitation thereto the relation of water to other resources, industrial water technology, ground water movement, relation between water price and water demand, and general hydrological conditions;

(d) Compile and coordinate systematic stream stage and ground water level forecasting data, and publicize such information when and as needed for water uses, flood warning, quality maintenance or other purposes;

(e) Conduct such special ground water investigations tests, and operations and compile such data relating thereto as may be required to formulate and administer the comprehensive plan;

(f) Prepare, publish and disseminate information and reports with respect to the water problems of the basin and for the presentation of the needs, resources and policies of the basin to executive and legislative branches of the signatory parties;

(g) Negotiate for such loans, grants, services or other aids as may be lawfully available from public or private sources to finance or assist in effectuating any of the purposes of this compact; and to receive and accept such aid upon such terms and conditions, and subject to such provisions for repayment as may be required by federal or state law or as the commission may deem necessary or desirable;

(h) Exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

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ARTICLE 11

INTERGOVERMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects of the signatory states, their political subdivisions and public corporations affecting water resources of the basin:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the commission in the comprehensive plan;

(c) Each state and local agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority, except as specifically provided by this section.

11.3. Reserved Taxing Powers of States. Each of the signatory parties reserves the right to levy, assess and collect fees, charges and taxes on or measured by the withdrawal or diversion of waters of the basin for use within the jurisdictions of the respective signatory parties.

11.4 Project Costs and Evaluation Standards. The commission shall establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of projects affecting the basin, and for the determination of project priorities, pursuant to the requirements of the comprehensive plan and its water resources program. The commission shall develop equitable cost sharing and reimbursement formulas for the signatory parties including:

(a) Uniform and consistent procedures for the allocation of project costs among purposes included in multiple-purpose programs;

(b) Contracts and arrangements for sharing financial responsibility among and with signatory parties, public bodies, groups and private enterprise, and for the supervision of their performance;

(c) Establishment and supervision of a system of accounts for reimbursable purposes and directing the payments and charges to be made from such accounts;

(d) Determining the basis and apportioning amounts (i) of reimbursable revenues to be paid signatory parties or their political subdivisions, and (ii) of payments in lieu of taxes to any of them.

11.5 Cooperative Services. The commission shall furnish technical services, advice and consultation to authorized agencies of the signatory parties with respect to the water resources of the basin, and each of the signatory parties pledges itself to provide technical and administrative services to the commission upon request, within the limits of available appropriations and to cooperate generally with the commission for the purposes of this compact, and the cost of such services may be reimbursable whenever the parties deem appropriate.

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Article 12

CAPITAL FINANCING

Section 12.1 Borrowing Power. The commission may borrow money for any of the purposes of this compact, and may issue its negotiable bonds and other evidences of indebtedness in respect thereto. All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the commission without recourse to taxation. The bonds and other obligations of the commission, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the commission and the full faith and credit of the commission are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the commission assumed by it to or for the benefit of the holders thereof.

12.2 Funds and Expenses. The purposes of this compact shall include without limitation thereto all costs of any project or facility or any part thereof, including interest during a period of construction and a reasonable time thereafter and any incidental expenses (legal, engineering, fiscal, financial consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the commission or by others for such purposes and for working capital.

12.3 Credit Excluded; Officers, State and Municipal. The commission shall have no power to pledge the credit of any signatory party, or of any county or municipality, or to impose any obligation for payment of the bonds upon any signatory party or any county or municipality. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds of the commission or be subject to any personal liability or accountability by reason of the issuance thereof.

12.5 Bonds: Authorization Generally. Bonds and other indebtedness of the commission shall be authorized by resolution of the commission. The validity of the authorization and issuance of any bonds by the commission shall not be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the commission or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The commission may issue bonds in one or more series and may provide for one or more consolidated bond issues, in such principal amounts and with such terms and provisions as the commission may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the commission in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to both principal and interest, as may be determined by the commission. The commission may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the commission may determine.

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12.14 Negotiability. All bonds issued under the provisions of this compact are negotiable instruments, except when registered in the name of a registered owner.

12.15 Legal Investments. Bonds of the commission shall be legal investments for savings banks, fiduciaries and public funds in each of the signatory states.

12.16 Validation Proceedings. Prior to the issuance of any bonds, the commission may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceeding shall be instituted and prosecuted in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

12.17 Recording. No indenture need be recorded or filed in any public office, other than the office of the commission. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipts of such revenues by the commission or the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the commission or to the indenture trustee.

Article 13

Plan, Program and Budgets

Section 13.1 Comprehensive Plan. The commission shall develop and adopt, and may from time to time review and revise, a comprehensive plan for the immediate and long range development and use of the water resources of the basin. The plan shall include all public and private projects and facilities which are required, in the judgment of the commission, for the optimum planning, development, conservation, utilization, management and control of the water resources of the basin to meet present and future needs; provided that the plan shall include any projects required to conform with any present or future decree or judgment of any court of competent jurisdiction. The commission may adopt a comprehensive plan or any revision thereof in such part or parts as it may deem appropriate, provided that before the adoption of the plan or any part or revision thereof the commission shall consult with water users and interested public bodies and public utilities and shall consider and give due regard to the findings and recommendations of the various agencies of the signatory parties and their political subdivisions. The commission shall conduct public hearings with respect to the comprehensive plan prior to the adoption of the plan or any part of the revision thereof.

13.3 Annual Current Expense and Capital Budgets.

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and

2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current

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expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

Article 14

General provisions

Section 14.1 Auxiliary Powers of Commission; Functions of Commissioners.

(a) The commission, for the purposes of this compact, may:

1) Adopt and use a corporate seal, enter into contracts, sue and be sued in all courts of competent jurisdiction;

2) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any signatory party or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or part thereof;

3) Provide for, acquire and adopt detailed engineering, administrative, financial and operating plans and specifications to effectuate, maintain or develop any facility or project;

4) Control and regulate the use of facilities owned or operated by the commission;

5) Acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, lease, license, mortgage or otherwise as it may deem necessary for any project or facility, including any and all appurtenances thereto necessary, useful or convenient for such ownership, operation, control, maintenance or conveyance;

6) Have and exercise all corporate powers essential to the declared objects and purposes of the commission.

(b) The commissioners, subject to the provisions of this compact, shall:

1) Serve as the governing body of the commission, and exercise and discharge its powers and duties except as otherwise provided by or pursuant to this compact;

2) Determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid subject to any provisions of law specifically applicable to agencies or instrumentalities created by compact;

3) Provide for the internal organization and administration of the commission;

4) Appoint the principal officers of the commission and delegate to and allocate among them administrative functions, powers and duties;

5) Create and abolish offices, employments and position as it deems necessary for the purposes of the commission, and subject to the provisions of this article, fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees;

6) Let and execute contracts to carry out the powers of the commission.

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14.2 Regulations; Enforcement. The commission may:

(a) Make and enforce reasonable rules and regulations for the effectuation, application and enforcement of this compact; and it may adopt and enforce practices and schedules for or in connection with the use, maintenance and administration of projects and facilities it may own or operate and any product or service rendered thereby; provided that any rule or regulation, other than one which deals solely with the internal management of the commission, shall be adopted only after public hearing and shall not be effective unless and until filed in accordance with the law of the respective signatory parties applicable to administrative rules and regulations generally; and

(b) Designate any officer, agent or employee of the commission to be an investigator or watchman and such person shall be vested with the powers of a peace officer of the state in which he is duly assigned to perform his duties.

14.3 Tax Exemption. The commission, its property, functions, and activities shall be exempt from taxation by or under the authority of any of the signatory parties or any political subdivision thereof; provided that in lieu of property taxes the commission shall, as to specific projects, make payments to local taxing districts in annual amounts which shall equal the taxes lawfully assessed upon property for the tax year next prior to its acquisition by the commission for a period of ten years. The nature and amount of such payments shall be reviewed by the commission at the end of ten years, and from time to time thereafter, upon reasonable notice and opportunity to be heard to the affected taxing district, and the payments may be thereupon terminated or continued in such reasonable amount as may be necessary or desirable to take into account hardships incurred and benefits received by the taxing jurisdiction which are attributable to the project.

14.4 Meetings; Public Hearing; Records, Minutes.

(a) All meetings of the commission shall be open to the public.

(b) The commission shall conduct at least one public hearing prior to the adoption of the comprehensive plan, water resources program, annual capital and current expense budgets, the letting of any contract for the sale or other disposition by the commission of hydroelectric energy or water resources to any person, corporation or entity, and in all other cases wherein this compact requires a public hearing. Such hearing shall be held upon at least ten days public notice given by posting at the offices of the commission. The commission shall also provide forthwith for distribution of such notice to the press and by the mailing of a copy thereof to any person who shall request such notices.

(c) The minutes of the commission shall be a public record open to inspection at its offices during regular business hours.

14.5 Officers Generally.

(a) The officers of the commission shall consist of an executive director and such additional officers, deputies and assistants as the commission may determine. The executive director shall be appointed and may be removed by the affirmative vote of a majority of the full membership of the commission. All other officers and employees shall be appointed by the executive director under such rules of procedure as the commission may determine.

(b) In the appointment and promotion of officers and employees for the commission, no political, racial, religious or residence test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be solely on the basis of merit and fitness. Any officer or employee of the commission who is found by the commission to be guilty of a violation of this section shall be removed from office by the commission.

14.6 Oath of Office. An oath of office in such form as the commission shall prescribe shall be taken, subscribed and filed with the commission by the executive director and by each officer appointed by him not later than fifteen days after the appointment.

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14.7 Bond. Each officer shall give such bond and in such form and amount as the commission may require for which the commission may pay the premium.

14.8 Prohibited Activities.

(a) No commissioner, officer or employee shall:

1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the commission is a party;

2) solicit or accept money or any other thing of value in addition to the compensation or expenses paid him by the commission for services performed within the scope of his official duties;

3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the commission.

(b) Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

(c) Any contract or agreement knowingly made in contravention of this section is void.

(d) Officers and employees of the commission shall be subject in addition to the provisions of this section to such criminal and civil sanctions for misconduct in office as may be imposed by federal law and the law of the signatory state in which such misconduct occurs.

14.9 Purchasing. Contract for the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars and contracts for the purchase of services, supplies, equipment and materials when the expenditure required exceeds two thousand five hundred dollars shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the basin. The commission may reject any and all bids and readvertise in its discretion. If after rejecting bids the commission determines and resolves that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the commission may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The commission shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The commission may suspend and waive the provisions of this section requiring competitive bids whenever:

1) the purchase is to be made from or the contract to be made with the federal or any state government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;

2) the public exigency requires the immediate delivery of the articles or performance of the service;

3) only one source of supply is available;

4) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest; or

5) services are to be provided of a specialized or professional nature.

14.10 Insurance. The commission may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the commission may determine, subject to the requirements of any agreement arising out of the issuance of bonds by the commission.

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14.11 Annual Independent Audit.

(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the commission. The audit shall be made by qualified certified public accountants selected by the commission, who have no personal interest direct or indirect in the financial affairs of the commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the commission shall direct. Copies of the report shall be distributed to each commissioner and shall be made available for public distribution.

(b) Each signatory party by its duly authorized officers shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the commission and necessary to facilitate the audit and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

(c) The financial transactions of the commission shall be subject to audit by the general accounting office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the comptroller general of the United States. The audit shall be conducted at the place or places where the accounts of the commission are kept.

(d) Any officer or employee who shall refuse to give all required assistance and information to the accountants selected by the commission or to the authorized officers of any signatory party or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall forfeit his office.

14.12 Reports. The commission shall make and publish an annual report to the legislative bodies of the signatory parties and to the public reporting on its programs, operations and finances. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

14.13 Grants, Loans or Payments by States or Political Subdivisions.

(a) Any or all of the signatory parties or any political subdivision thereof may:

1) Appropriate to the commission such funds as may be necessary to pay preliminary expenses such as the expenses incurred in the making of borings, and other studies of subsurface conditions, in the preparation of contracts for the sale of water and in the preparation of detailed plans and estimates required for the financing of a project;

2) Advance to the commission, either as grants or loans, such funds as may be necessary or convenient to finance the operation and management of or construction by the commission of any facility or project;

3) Make payments to the commission for benefits received or to be received from the operation of any of the projects or facilities of the commission.

(b) Any funds which may be loaned to the commission either by a signatory party or a political subdivision thereof shall be repaid by the commission through the issuance of bonds or out of other income of the commission, such repayment to be made within such period and upon such terms as may be agreed upon between the commission and the signatory party or political subdivision making the loan.

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14.17 Penal Sanction. Any person, association or corporation who violates or attempts or conspires to violate any provision of this compact or any rule, regulation or order of the commission duly made, promulgated or issued pursuant to the compact in addition to any other remedy, penalty or consequence provided by law shall be punishable as may be provided by statute of any of the signatory parties within which the offense is committed; provided that in the absence of such provision any such person, association or corporation shall be liable to a penalty of not less than $50 nor more than $1,000 for each such offense to be fixed by the court which the commission may recover in its own name in any court of competent jurisdiction, and in a summary proceeding where available under the practice and procedure of such court. For the purposes of this section in the event of a continuing offense each day of such violation, attempt or conspiracy shall constitute a separate offense.

14.18 Tort Liability. The commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents and employees only to the extent and subject to the procedures prescribed by law generally with respect to officers, agents and employees of the government of the United States.

14.19 Effect on Riparian Rights. Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective signatory parties relating to riparian rights.

14.20 Amendments and Supplements. Amendments and supplements to this compact to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

CONSTRUCTION AND SEVERABILITY

14.21 The provisions of this Act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of the Delaware River Basin Compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of such compact or such agreement and the applicability thereof to any other signatory party, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of such compact be reasonably and liberally construed.

14.22 Effective Date; Execution. This compact shall become binding and effective thirty days after the enactment of concurring legislation by the federal government, the states of Delaware, New Jersey and New York, and the Commonwealth of Pennsylvania. The compact shall be signed and sealed in six duplicate original copies by the respective chief executives of the signatory parties. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the commission upon its organization. The signatures shall be affixed and attested under the following form:

IN WITNESS WHEREOF, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this day of , 19

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PART II

ARTICLE 15

RESERVATIONS

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(c) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(d) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the Commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(e) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, or such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(q) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.

EFFECTUATION

15.2 (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder.

(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member.

15.3 Effective Date: This Act shall take effect immediately.

Approved September 27, 1961.

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THE UNIVERSITY OF TEXAS AT AUSTIN
SCHOOL OF LAW
2500 Red River
AUSTIN, TEXAS 78705

The Law Library

August 23, 1973

Ms. Maryann Duggan, Director
SLICE Office
2600 Stemmons - Suite 188
Dallas, Texas 75207

Dear Maryann:

This letter will summerize the results of the meeting of Mr. Brawner and yourself and me last Monday. In general, we agreed that I will produce for SLICE by January of 1974 a Working Paper on the legal aspects of a regional bibliographic network in the six SWLA states.

Specifically, the study will be aimed at constructing an entity with independent legal existence capable of entering contracts in each state of the region, and with the ability to receive and transmit funds from federal, state, and private sources. Any resultant interstate library agency would avoid the restrictions presently hampering SLICE operation.

As we discussed, the study will tentatively be in four parts: first, a summary of the alternative legal structures capable of operating across state lines; second, a detailed discussion of selected organizations or networks which operate in allied fields (SREB, NELINET, OCLC); third, a detailed discussion of compact law, the basic rules governing interstate or multistate agencies; fourth, an outline of the steps to be taken by SLICE in establishing an interstate library agency, indicating the necessary operative documents.

If it turns out that these portions of the total study are severable, then I shall pass on drafts to you as each portion is completed. At any rate, I will provide you with monthly progress reports. Also, I will be willing to meet with any people whose input you feel would be beneficial, either for purposes of general discussion or to review drafts of the study.

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It should be possible to have a copy of the final draft to you by January. For tax reasons, I would prefer delaying payment until that time. We agreed that $1,000.00 would cover the cost of this study, that figure to include compensation for my time as well as expenditures such as typing, supplies, research costs, and the like. However, any necessary travel expenses will require reimbursement in addition to this one thousand dollars. Any travel related to this project will be approved in advance by you as the situation develops.

We also discussed the problem of ownership of the copyright in the final version of the study. I would like to see it published or disseminated fairly widely, but I am agreeable to SLICE retaining prior approval of any subsequent publication. Naturally, the assistance of CLR and SLICE in funding the study will be acknowledged therein.

This summarizes our agreement, as I understand it. If you can recall or wish to add additional elements, please feel free to do so.

I enjoyed the meeting and felt that at least it was beneficial to me. I look forward to this project and hope it will be useful to SLICE.

Sincerely,

Harry S. Martin

Harry S. Martin
Assistant Law Librarian

HSM/lah

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be Law Library

RESUME

Harry Stratton Martin, III	Born:	Hartford, Connecticut	Spouse:	Molly Lee
A.B.; J.D.; M.L.S.	Date:	22 January, 1943	Occupation:	Registered Nurse
Assistant Law Librarian for Readers' Services	Height:	5' 9"	Children:	None
	Weight:	160 lbs.		

EDUCATION

Edina-Morningside High School, 5701 Normandale Road, Edina, Minn. 55424. Graduated, 1961. Activities: Senior Class President; Band; Latin Club; French Club; Soccer; Chess Club.

Harvard College, Cambridge, Mass. 02138. A.B., 1965; History. Activities: Harvard University Band; Harvard-Radcliff Orchestra; Gilbert & Sullivan Society; Soccer.

University of Minnesota Law School, Minneapolis, Minn. 55455. J.D., 1968. Activities: Minnesota Concert Band Ensemble; University of Minnesota Orchestra.

Graduate School of Library and Information Sciences, University of Pittsburgh, Pittsburgh, PA. 15213. M.L.S., 1971. Activities: Graduate Assistant, Bureau of Urban Library Research.

EMPLOYMENT

Summer jobs: Hospital orderly; Assistant Manager, bicycle shop; municipal band; cab driver; jazz band.

Peace Corps. Instructor of Law, Louis Arthur Grimes School of Law; University of Liberia, Monrovia, Liberia. Activities: Editor, Librarian Law Journal; Chairman, Faculty Library Committee.

Tarlton Law Library: Assistant Law Librarian since 1972. Coordinate activities of reference, circulation, foreign law, and government documents departments. Responsible for collection development. Administrator, Legal Research and Writing Program; Member, University of Texas Library Documents Task Force.

PROFESSIONAL ORGANIZATIONS

Minnesota State Bar; American Bar Association; American Judicature Society; American Association of Law Libraries.